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ABSTRACT

This volume of hearings before the Sub-committee on Education of the Committee on Labor and Public Welfare, United States Senate, is organized into three sections, the contents of which are as follows: Section One comprises the testimony of four witnesses before the Committee; Director Office for Civil Rights, Department of Health, Education and Welfare; Superintendent of Public Schools, Anne Arundel County, Maryland; Assistant State Superintendent, Maryland State Department of Education and Chairman of the Maryland State Department of Education Task Force; and, a Coalition for Justice panel. Section Two comprises the statements submitted by these witnesses to the Committee. Section Three comprises "additional information" deemed pertinent to the subject of the hearings. Among the topics discussed in this section are: bias in the suspension of Negro students from school; the Health, Education and Welfare Department's investigation of discipline in the Anne Arundel County Public Schools; racial discrimination in school disciplinary policies; a psychiatric investigation of the Anne Arundel County Learning Center; recent Supreme Court Decisions on student rights; and, employee dismissal practices. (JM)

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OVERSIGHT HEARING ON HEW ENFORCEMENT OF SCHOOL-RELATED CIVIL RIGHTS PROBLEMS, 1975

HEARING

BEFORE THE

SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

EXAMINATION ON THE ADMINISTRATION AND ENFORCEMENT OF THE CIVIL RIGHTS ACT IN THE ELEMENTARY AND SECONDARY AREAS OF EDUCATION

APRIL 30, 1975

UD 015781

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EDUCATION & WELFARE
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OVERSIGHT HEARING ON HEW ENFORCEMENT OF SCHOOL-RELATED CIVIL RIGHTS PROBLEMS, 1975

WEDNESDAY, APRIL 30, 1975

U.S. Senate,
Subcommittee on Education of the
Committee on Labor and Public Welfare,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 4232, Dirksen Office Building, Senator J. Glenn Beall, Jr., presiding pro tempore.

Present: Senator Beall.

Committee staff present: Stephen J. Wexler, counsel; and Gregory Fusco, minority counsel.

Senator Beall. The hearing will come to order.

At the outset I would like to welcome everybody to our hearing this morning before the Subcommittee on Education of the Labor and Public Welfare Committee of the Senate.

I would like to open by thanking Senator Pell, the chairman of the Education Subcommittee, for allowing us to conduct these hearings this morning. Senator Pell may be here shortly. He is also a member of the Rules Committee, and they are currently engaged in a ballot count to determine the outcome of an election that took place late last year.

Approximately 2 years ago, the Department of Health, Education, and Welfare's Office of Civil Rights commenced an investigation of alleged discrimination of minority students in disciplinary action by Anne Arundel County, Md.

The original action stemmed from complaints of a very general nature. After a series of meetings and exchanges of various correspondence, HEW's Philadelphia office, on January 22, 1974, demanded that Anne Arundel County provide them, within 15 days, the 3-year records of the disciplinary histories of some 25,000 students, a 13-year history of coaches in the county and a listing of racially isolated classrooms.

It was at this point that I entered this dispute. The issues involved here are extremely important. The Sixth Annual Gallup Poll on public attitudes toward public education indicated that our citizens regarded lack of discipline as the No. 1 school problem. As a matter of fact, school discipline was ranked the No. 1 problem in 5 of the last 6 years.

The U.S. News & World Report in their April 14, 1975, issue did a special report on violence in the schools:

> Under growing public pressure, communities across the U.S. are mounting a fresh attack against disorders that are disrupting classrooms or threatening life and limb in thousands of public schools—The National Association of School

> Security Directors reports 8,568 rapes and other sex offenses, 11,160 armed robberies, 256,000 burglaries, and 189,332 "major assaults" in schools last year. Various kinds of school crime have increased 58 to 117 percent since 1970, and only about one out of 20 incidents is reported to police. Estimated cost to taxpayers: $600 to $700 million a year—when violence goes unchecked, it can plunge a school or even an entire district into a downward spiral, educators warn.

The second ranking problem in the Gallop survey was segregation and integration problems. So, two ranking issues—discipline and discrimination—are involved here.

I believe this Nation cannot and should not condone or tolerate discriminatory treatment of students. I also believe that learning cannot take place in an environment lacking reasonable discipline, and that schools and teachers cannot and should not permit discipline problems of a few students to disrupt the class or educational process of the majority. Disciplinary action can and must be administered in an even-handed manner. Justice must be color blind in our schools as well as our society.

I do not believe that statistical differences in disciplinary action alone should trigger the massive fishing expedition that HEW has been conducting in Anne Arundel County. A numerical difference is not equivalent to discrimination. If so, HEW, which has jurisdiction over sex discrimination, should also be investigating discriminatory treatment against male students, since the statistical difference on discipline between males and females is probably significant.

HEW seems to equate the statistical differences with discrimination. At the very least, they seem to say that where a statistical difference exists, the burden of proving that discrimination does not exist, shifts to the county. Whether intended or not, a county, if it does not have the will to resist the harassment and provide the paperwork generated by HEW, will be forced to have, or move in the direction of, a quota system for discipline.

If school authorities do not feel free to take the appropriate disciplinary action to fit the problem, we may have little hope of making some schools conducive for learning or even safe for the students.

When I became involved in this dispute, my suggestion to HEW was relatively simple—namely, to investigate the validity of the individual complaints. If they proved valid, then investigate the school or schools involved. Thereafter, if the school investigation revealed discrimination or if additional complaints were received from other schools and if there was statistical evidence suggesting possible discrimination, it would then seem reasonable to require the countywide inquiry sought by HEW.

This inquiry was estimated to have required six full-time administrators, working 6 months to comply with the HEW demands.

For the record, it was of interest to me that the school from which the original complaints were received had a black principal. While it is possible that a black principal would discriminate or permit discrimination against black students, I believe commonsense argues otherwise and gives support to the procedure I suggested to HEW.

Still, being unable or unwillng to validate the discrimination charges in the original complaints, HEW announced in June of 1974 that Anne Arundel County would be the first pilot investigation of second generation discrimination, discipline.

Finally, the school system in the fall of last year, feeling they had furnished HEW with the information that was needed to complete the investigation, refused to cooperate further.

Thereafter, the superintendent of Anne Arundel County requested help from Governor Mandel and as a result a State task force was named in November 1974 to conduct an impartial investigation. This investigation was completed and the task force found no evidence of discrimination after examining the specific charges.

However, the task force did identify some problems, particularly communication problems with the school system and the minority community. Thus, the Maryland task force did what HEW has been unable to do despite 2 years of investigation: determine the validity of the specific complaints.

Thus, we see that the initial complaints which triggered this dispute still have not been validated by HEW, although the Maryland task force found the charges in effect without foundation. Such complaints accelerated into a national civil rights controversy, resulting in, according to HEW, one House in Congress repealing the Civil Rights Act.

I voted against the Holt amendment although I commend Congresswoman Holt for raising the issue. I felt that the House amendment went too far; but I also believe that HEW has gone too far for too long and with too little evidence.

While the particular situation we are exploring today is local, the issues involved are important and national.

HEW announced last year that other "pilot studies" will be conducted elsewhere. Anne Arundel County was the first school district to be so disrupted.

What evidence is Congress going to require before a district must supply unlimited information?

Does the fact that the district signed a contract with HEW that they would comply with title VI's nondiscrimination in the use of Federal funds requirement mean that HEW has an unlimited "hunting license," subject only to the limitation that visiting and demanding hours will be between 9 and 5?

This Education Subcommittee has been concerned with respect to the paperwork required and the administrative burdens created by Federal programs. Indeed, under the leadership of Chairman Pell, we made important administrative simplification and program consolidation last year. Some school administrators have told me they are spending inordinate time on such matters and this is diverting both their attention and resources from education problems.

As a member of the Education Subcommittee, I am aware of the many problems facing American education. Anne Arundel County has many of these problems. I believe they are trying to deal with these problems in a responsible manner. No evidence has been presented to demonstrate otherwise.

I look forward to today's oversight hearings so the Congress and the country may see what HEW has been doing, and the basis for such action in one county in Maryland.

I might say parenthetically that these hearings come as a result of debate that took place on the extension of the Elementary and Secondary Education Act last year when this matter was brought up in the course of discussion of the Holt amendment. At that time we were promised by Senator Javits and Senator Magnuson that public hearings on this matter would be conducted, and that we would have a thorough airing of the problems that result from HEW's intrusion in the operation of the school administration on the local level.

We will start the hearing this morning by hearing from our first witness, who is Mr. Peter Holmes, Director of the Office of Civil Rights, Department of Health, Education, and Welfare.

Mr. Holmes, we welcome you to the subcommittee this morning, and you may testify as you wish, and you may bring to the table anybody you wish to accompany you for the hearings.

STATEMENT OF PETER E. HOLMES, DIRECTOR, OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; ACCOMPANIED BY DAVID GERARD, PROGRAM COORDINATOR, DIVISION OF ELEMENTARY AND SECONDARY EDUCATION, OFFICE FOR CIVIL RIGHTS; AND STEPHEN L. SPITZ, ATTORNEY, OFFICE OF THE GENERAL COUNSEL

Mr. HOLMES. Thank you, Mr. Chairman.

We welcome the opportunity to appear before the subcommittee and set upon the record the facts of this situation.

We think it is important that the record contain the full and complete facts.

First of all, let me say, Mr. Chairman, that I submit that there has not been a 3-day investigation of possible racial discrimination and discipline in Anne Arundel County, let alone a 2-year investigation. I think that my statement will clearly document the difficulties that our office had in conducting a fair, unbiased, objective evaluation of the discipline process in Anne Arundel County.

Second, let me say that, as a personal matter, I share your strong concern, and the subcommittee's strong concern, regarding the issue of violence in schools. As a personal matter, I believe that the need for strong, unbiased discipline is necessary in our public school system.

Our concern, of course, is not whether disciplinary action exists or is taken; it is that the students are treated fairly, as you indicated, fairly and equitably, in disciplinary process.

Senator BEALL. Excuse me, would you identify your companions for the record?

Mr. HOLMES. Yes. On my right is Mr. David Gerard from the Elementary and Secondary Education Division, who has led the team that has been attempting to review disciplinary practices in Anne Arundel County.

On my left is Mr. Stephen Spitz from our Office of General Counsel, who has been the attorney working with Mr. Gerard.

Specifically, Mr. Chairman, we understand that the subcommittee would like to focus on reviews of student discipline practices, including such matters as our legal authority to pursue these cases, the scope of information deemed pertinent, and established priorities.

The Office for Civil Rights—OCR—enforces title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs, including those of school districts.

School districts subject to title VI are required to submit a written assurance of compliance under which they are legally obligated to meet the requirements of title VI and its implementing regulation.

In addition to outlining various prohibited practices and imposing certain procedural requirements, the regulation provides that school districts, as well as other recipients of Federal funds, will maintain such records and submit such reports as may be necessary to ascertain compliance.

School districts have also assured the Department that they will permit access to records, facilities, and other sources of information "as may be pertinent to ascertain compliance.* * *" (45 CFR sec. 80.6 (b) and (c).)

In sum, the regulation envisions a compliance program to enforce the statute and does not impose restrictions on the areas of inquiry and scope of information which the Department may pursue in order to effectively discharge its compliance responsibility.

In the elementary and secondary education area, OCR has sought to field a balanced compliance effort to deal with individual complaints and with many different but interrelated compliance problems that appear to affect large groups of students in a serious way.

For instance, reviews have been conducted to determine the discriminatory effect of English language barriers, to investigate classroom assignment practices, to assess possible discrimination in the dismissal or demotion of black educators, to evaluate whether title VI problems exist in vocational education, and to systematically evaluate whether minority children in large urban school districts are receiving equal and comparable educational services.

Reviews have also been scheduled and conducted to ascertain whether school districts have adopted and are administering discipline policies in a nondiscriminatory manner.

As for the methods used to conduct reviews, it is generally necessary to interview school personnel and students and to examine relevant school records. This information is then analyzed and a report of findings submitted to the district.

Although the review of an individual complaint may not always require an exhaustive survey of districtwide practices and their effect, this will depend largely on the nature of the allegations made in the complaint.

Generally speaking, in regard to complaints or other information suggesting a possible title VI violation, OCR first requests information from the district which may, in turn, resolve the matter or dictate further inquiry by means of an onsite review.

As to the criteria applied, I am sure members of the committee are aware that in enacting the Emergency School Aid Act in 1972, the Congress explicitly prohibited, by statute, discriminatory disciplinary treatment and provided that no funds under the act were to be granted to districts that engage in such treatment.

There is no doubt that this prohibition arose from a concern, expressed during hearings and referred to generally in the legislative history, about the "push-out" phenomenon and about reports that minority children were being discriminatorily suspended and expelled from school.

The Office for Civil Rights was likewise concerned about the problems and this concern grew as discussions were held with various civil rights organizations, and as we gained firsthand experience in enenforcing the civil-rights-related requirements of the Emergency School Aid Act, ESAA.

Various studies have been published reporting extensively on disciplinary practices and their effects, including "The Student Pushout, Victim of Continued Resistance to Desegregation," issued by the Robert F. Kennedy Memorial and the Southern Regional Council, and, more recently, "Children Out of School in America," published by the Children's Defense Fund. In addition, I should mention that the Supreme Court has recently ruled in *Voss* v. *Lopez*, 419 U.S. 565, January 22, 1975, that constitutional rights are involved in the application of student discipline.

It was our judgment that the Office should father, as part of its annual school enrollment survey, comprehensive data on the racial impact of suspensions and expulsions. The purpose of such data is, of course, to accurately determine not only the extent of the problems, in terms of any widespread disparity that may exist on the basis of race or ethnicity, but also to discern where the most serious compliance questions appear to have arisen.

Standing alone such statistics do not establish that discrimination exists in any particular school district. Rather, the survey results with respect to the issue of discipline, or any other complaince issue, are normally used as one factor in setting priorities and in alerting the Office to the possibility of discrimination which we are obligated to investigate. Discipline data was included for the first time in the 1973-74 school survey.

As a practical matter, then, survey results, along with other considerations, influence the selection of districts scheduled for review. Additional factors are the number and nature of complaints alleging violations in particular districts, information brought to our attention by civil rights groups and other sources, the ongoing commitments and work priorities of the regional offices and of the elementary and secondary education division, the timely availability of technical expertise and legal counsel, and the objectives of maintaining a compliance program that is nationally oriented and not focused exclusively on any region of the country.

Thus far in fiscal year 1975, 41 complaints alleging discrimination in the school discipline area have been received.

Essentially, all the facts and circumstances just cited have had bearing in framing our approach to the question of discriminati in school discipline.

OCR has conducted 61 reviews under ESAA and title VI wh encompassed, at least in part, the issue of school discipline.

In addition, the office decided to conduct a number of con headquarters-regional office reviews which would address discip procedures in a comprehensive manner in a number of cases where information on hand, including survey data, raised serious compl questions.

Initially, we proposed to review the school district of Richland County, Columbia, S.C.; Akron, Ohio; Nacogdoches, Tex.; and Anne Arundel County, Md. Two additional reviews will be scheduled this fiscal year.

All four of the reviews have been initiated and only in the case of Anne Arundel County have the school officials declined to permit the office to schedule interviews with key personnel or to examine pertinent records. Specifically, in Anne Arundel County, OCR was denied the right to visit selected schools and interview principals, teachers and other staff, and students.

In addition, the district has refused to provide OCR with a copy of the deputy superintendent's log of disciplinary action and other school records which report disciplinary actions, and I should note with reference to the deputy superintendent's log, that that log is in existence, is available, and the production of it for the Federal Government in connection with this investigation would require no substantial or significant staff time on the part of local school officials.

Now, continuing with my statement; written instructions or policies issued by principals of various schools bearing on the policies and procedures of applying suspension, expulsion, and other adverse action, and we understand is available, and would not require substantial staff time on the part of school officials, was denied.

For each selected school, a racial breakdown of students referred to principals or to the superintendent's office for disciplinary action, the established procedures under which such referrals are made and the reasons for applying disciplinary action in such instances.

In a school system as well organized as Anne Arundel County, this information is readily available, and can be produced with a minimum burden to school officials.

Because of the failure of the district to comply with its legal commitment to provide pertinent information, without which this office can make no determination as to its compliance status under title VI, we requested the Department of Justice to take legal action to secure our right of access to the material.

Accordingly, a lawsuit was filed by the Government on November 19, 1974, in Federal District Court in Baltimore.

During the hearing held on February 21, 1975, Judge Edward S. Northrop, chief judge of the Federal District Court, ruled that no Federal or State law restricts OCR's access to relevant information, including information which the school district contended was confidential and therefore not releasable.

A final order is still pending in the case.

The State by-law in which the defendant relies provides that "access to such confidential records may be granted for purposes of serving legitimate and recognized educational ends."

The elimination of discriminatory disciplinary practices is clearly legitimate and sufficient to invoke this exception.

In conclusion, Mr. Chairman, let me make several observations which I believe should be kept in mind in considering our course of action with respect to this case.

In the first instance, apart from private studies which have heightened national awareness of the problem, OCR survey data show that the frequency of expulsions and suspensions among minority groups is nearly twice that of white students. It is a situation which, under any reasonable standard, should warrant attention by an office such as ours which is responsible for enforcing congressionally established requirements of nondiscrimination.

Equally to the point, there is no escaping the fact that the survey data submitted by the Anne Arundel County school district, as well as the nature of the complaints received, raise compliance questions which should be reviewed. I referred to some of this data in testimony given last May before the House Subcommittee on Equal Opportunities.

The record clearly shows that the office for civil rights has made every effort to cooperate with the school district in delineating precisely the type of information minimally required and in providing a reasonable opportunity to submit it under mutually agreeable conditions.

From the time when the Office first initiated a review of a complaint nearly 2 years ago, there have been at least 26 exchanges of correspondence between this department and the superintendent or his staff, and nearly all have dealt with the information needs of this office.

While the school district has supplied a great deal of material that is helpful, the compliance questions cannot be resolved until other, crucial information is furnished—information and access to information that was spelled out again in my letter of September 27, 1974, to the superintendent and information which the superintendent, in his reply to me of October 9, 1974, declined to provide with the exception of one item.

Mr. Chairman, with your permission, I would like to submit for the record the Department's correspondence with the school district, the court complaint filed by the Department of Justice and related court motions, and a listing of expulsion and suspension data covering the Anne Arundel County school district.

With respect to our contacts with the school district, I would like to stress that we have always been sensitive to the need to safeguard confidentiality of student records. As I indicated, agreements can be worked out under which this confidentiality can be effectively preserved. One such method is to expunge the names of students by using a coding system.

The expunging of names is a method, I understand, that was utilized by the district with respect to information for the 1972–73 school year supplied to us in the spring of 1974.

In addition I should mention that in a meeting on December 5, 1974, with representatives of the school system, legal counsel through the Governor of the State of Maryland, and representatives of the State attorney general's office, we were provided a copy with the names expunged of one page of the deputy superintendent's log.

We also received an indication at that time that the names would be deleted from that log, a crucial document in our estimation, and provided to us, the complete log. To date we have not received that information. The date of that meeting was December 5, 1974, during which we thought, and the representatives of the Governor's office thought, that we had reached a resolution of this matter with the local school officials.

I repeat, to date we have received none of the information that was agreed to in that meeting.

I should note that a proposed agreement came out of that meeting that we had drafted and submitted to the school officials on December 12, 1 week after the meeting.

Pardon me, they were supposed to submit the agreement to us on December 12, 1 week after the date of the December 5 meeting. We did not receive that.

Some objection has been voiced to the effect that, along with the three other school districts I named earlier, Anne Arundel was selected for a so-called pilot review. There is no sneak magic to the term and the controversy may be more a matter of semantics than anything else.

The short answer is that historically school discipline represents a relatively new issue for the Office for Civil Rights, and obviously, one has to start somewhere. There are always going to be a number of "firsts" in regard to any situation of possible discrimination, just as there was a "first" 10 years ago when the Office for Civil Rights became involved in desegregating the dual school system.

More appropriately, the word "pilot" should probably read "initial," in the sense that with respect to this issue, we are still in a formative stage, and certainly were a year ago.

By the same token, in undertaking reviews keyed to a relatively new compliance issue, there will always transpire, to some extent, a learning process as compliance staff become familiar on a firsthand basis with the policies and procedures of school districts. I ask the committee: How else can it be?

Second, it is not unusual that the results of reviews help to fashion standards that, in turn, encourage all school districts across the country to adhere to the nondiscrimination requirements of title VI. This is a pattern that may or may not hold in connection with the reviews of school discipline practices.

The point is, however, that every school district review may potentially serve a wider purpose, in the same way that Federal district court decisions may ultimately evolve into a significant precedent.

The Anne Arundel County review is no different in this respect than any other review. It was not selected arbitrarily but on the basis of serious compliance questions that came to our attention. Nor is the district being used to carry out a theoretical experiment—a fishing expedition—extraneous to our responsibility to assure compliance with title VI.

On a preliminary basis the Office has reviewed the report of the task force appointed by the Maryland State Board of Education to look into the school disciplinary practices of Anne Arundel County. The inquiry dealt primarily with two individual complaints and stopped short of investigating districtwide, school-by-school disciplinary procedures.

I am sure that the report will prove helpful, particularly the general observations and recommendations, and the Office has proposed a meeting with members of the task force to discuss in detail their findings with respect to the individual complaints.

At the same time, I am sure you understand, the report does not remove our legal responsibility to assure compliance with title VI on the basis of an independent assessment of all the facts when compliance issues arise, as they have in this case.

I would like to note for the record that I understand the State board of education task force, in conducting its investigation, had access to schools, interviews with teachers, administrators, and students, as well as access to other pertinent data, all of which have been denied the Office for Civil Rights, in its attempt to investigate disciplinary actions in Anne Arundel County.

It is our hope that the task force report may encourage the Anne Arundel school officials to permit the OCR review to resume. In a larger sense, the ongoing stalemate over the essentially procedural, threshold question of access to information benefits neither the school district, the Federal Government, nor the minority children whose rights, both parties, I am confident, seek to protect.

For the Government, the impasse translates into an expenditure of time and money that could be spent to better advantage, and the school district may well be simply postponing a final resolution of the questions involved.

From our perspective, the governing regulation, which authorizes full access to pertinent information, should be viewed by school districts not as a bureaucratic intrusion but as a fundamental protection of their right to a fair hearing on the basis of all the evidence.

Such access is absolutely essential if the Office is to enforce the law according to sound evidentiary principles. Our purpose is not to bully school officials or to inundate them with frivolous or unnecessary demands for recordkeeping and reports. Rather, the objective is to secure all relevant information bearing on the case so as to avoid mistakes and reach sound conclusions as to whether recipients of Federal funds are meeting their nondiscrimination obligations.

Again let me say, Mr. Chairman, that we appreciate the opportunity to appear before you and explain more fully for the record the position of our Office in this very controversial matter.

Thank you, and I will be very glad to respond to any questions.

Senator BEALL. Thank you, Mr. Holmes, for your testimony.

I think that we should point out at the outset that no one on the committee is questioning the right of the Office of Civil Rights and HEW to investigate complaints.

The question this morning is how this is done, and the means used to determine the validity of the complaint.

In that regard I wonder if you could advise the committee of the date and nature of the initial complaint in the Anne Arundel County case?

Mr. HOLMES. On May 21, 1973, the Philadelphia Regional Office for Civil Rights received a signed complaint dated May 17, 1973, from three persons representing a group of black parents in Anne Arundel County, alleging racial discrimination in the administration of student discipline in the county schools.

The complaint stated:

> We seek your Office to investigate the entire Anne Arundel school system, from Meade Village to Southern High School, to find out if there is merit to what appears to be a pattern of "sit down, shut up, or get out" messages given to our black children.

This complaint was submitted with a number of specific examples, and supplemented at a later date with still more specifics.

So the date was May 21, 1973.

Senator BEALL. We have a different complaint. When we asked your office for the initial complaint, we got something dated May 8, 1973, that came from the parents association, of a very general nature.

Mr. HOLMES. We received the complaint on May 21.

Senator BEALL. Are we talking about this parents association?

Mr. HOLMES. The document apparently that you have, Mr. Chairman, was a supplementary document to this letter. This letter was dated May 17, and it was received by us on May 21, 1973.

Senator BEALL. Well now did you investigate that complaint?

Mr. HOLMES. Yes, we—no. We arranged, we communicated with the school system, advising them of the existence of the complaint, and set up a meeting with local school officials.

I have chronology here. On May 31, 1973, Mr. Dewey Dodds, a letter from Mr. Dewey Dodds to one of the complainants acknowledging the existence of the complaint, and indicated that we would attempt to investigate the complaint as soon as our staff resources permit.

On July 24, 1973, an onsite visit was made by three members of the OCR region 3 office, at which time a meeting was held with Superintendent Anderson, Assistant Superintendent Alsobrook, for the purposes of describing the purpose of the investigation, and the types of information needed.

I understand at that meeting a question of the confidentiality of records was raised. Then on July 25 there was another meeting with the superintendent at which access to all records was specifically denied to us.

Senator BEALL. You start out investigating specific complaints, as I understand it?

Mr. HOLMES. We will sometimes investigate a specific complaint, or we will often initiate a review, even absent a complaint as a result of information that has been provided us on the annual survey forms that I alluded to in my remarks.

So it is not necessary for us to have a complaint in order to launch an investigation, or initiate an investigation.

In this case there was a complaint alleging district-wide discrimination in disciplinary practices.

Senator BEALL. Okay. In other words, your investigation of Anne Arundel County was starting on the basis of a complaint of a general nature received in your office, and you never received a specific complaint involving a specific student or specific school?

Mr. HOLMES. In this complaint, no. In the spring of 1974, we received two individual complaints. But in the spring of 1973, this was a general, class complaint.

Senator BEALL. Have any of the specific complaints been validated?

Mr. HOLMES. Thoroughly investigated and a decision made by us?

Senator BEALL. Yes.

Mr. HOLMES. No.

Senator BEALL. Why have there not been?

Mr. HOLMES. There were three complaints, and I think there has recently been received yet a fourth complaint. The fourth complaint was of a general or a class nature. There was an effort to establish some ground rules with the school system and inform them of the procedures that we would like to follow in the investigation of that complaint.

Senator BEALL. The general complaint?

Mr. HOLMES. The general complaint. That did not get off the ground because we were advised at that time that many of the records of the school system would not be made available to us, records that we felt were essential to the investigation of the broad general complaint.

In the spring of 1974, two individual complaints were received by us. They were not specifically investigated by us. One of the individuals was at the learning center, I understand.

We sought, or Mr. Gerard sought, in his discussions in the summer of 1974 with school officials, to arrange an appointment with the principal, the head of the learning center, and that opportunity was denied to us.

Mr. Gerard had sought a meeting with the principal of the learning center on September 17, 1974. That appointment was suddenly canceled on September 15 by the superintendent's office. And a letter dated September 16 was sent by the district to me, saying that the district regarded the matter as closed.

So as you can see, Mr. Chairman, there was not an opportunity to investigate the individual complaints, let alone the general complaints, because our investigators were denied an opportunity to speak to officials of the system, and at the schools, about not only the individual matters, but the general matters as well.

Senator **Beall**. On April 25 we wrote you a letter, and indicated in the letter that access could be gained to the school where original complaints stemmed from, is that not true?

Mr. **Holmes**. A letter from you, Senator Beall, advising us that we had access to two schools in Anne Arundel County?

Senator **Beall**. We suggested that if you had a complaint, as we understood at that time the case to be, that if you limit your inquiry to the complaint or complaints in that one school, at least initially, and ascertain the validity of that complaint before embarking on "a fishing expedition," and demanding a considerable amount of work on the part of the school system. We indicated to HEW that we would arrange for investigation in the individual schools.

In other words, did HEW at any time try to put this in some sort or order of priorities so that you investigated the initial complaint prior to the time you went off on a general pilot study?

Mr. **Holmes**. Yes. Let me ask Mr. Gerard to respond to that.

Mr. **Gerard**. Mr. Chairman, Mr. Holmes designated me in the spring of 1974 as the leader of the compliance review team.

On August 21, in the company of Mr. John Jefferson of my staff, I met with Mr. Berry Carter, deputy superintendent, to discuss the ground rules for the conduct of the review. At that time I told Mr. Carter that there were three outstanding complaints, and it was our intention to address ourselves to those complaints before making additional inquiry into discipline practices in the system.

As Mr. Holmes described, there was a complaint of a general nature, a class complaint, which we felt had not been resolved, and two individual complaints regarding students, one of whom was a student in Annapolis Junior High School, and the other a student in the learning center.

It was our intention, to say again, to dispose of those complaints with dispatch.

Senator **Beall**. I am confused as to the kind of complaints you are talking about. When you talk about general complaint, are you talking about the latter from the parents association, the unsigned letter from the parents association? Are you talking about a letter from Mr. Holmes referred to specifically, signed by three people, which I do not seem to have?

Mr. HOLMES. I would be glad to supply the letter to you.

Senator BEALL. I am not sure which Mr. Gerard is talking about.

Mr. HOLMES. We are referring to the letter, the letter signed by three individuals.

Senator BEALL. That is the general complaint?

Mr. HOLMES. Representing the parents association and the SCLC.

Senator BEALL. And that is the one you received May 17, 1973, Mr. Gerard, is that what you are talking about?

Mr. HOLMES. It is May 21, 1973, that is correct. Mr. Chairman, would you like a copy of it?

Senator BEALL. Yes, I would like to have a copy. Is that the letter Mr. Gerard is referring to?

Mr. HOLMES. Right. The point here, Mr. Chairman, if I may continue briefly, is that a year prior to the receipt of the individual complaint we had received that letter, it had caused us to make those initial contacts with the school system in the summer of 1973.

We felt at that time that certain material information, as well as the opportunity to interview certain individuals, was necessary for us to proceed. It is a general complaint. And that review did not get off the ground because of the position of the school system at that time regarding the State law on the confidentiality of records.

Of course, as I indicated, the district subsequently provided to us some of the—or some examples of these records that we sought to obtain with the names stricken.

Senator BEALL. So I understand this completely, you first went to the county on the basis of the general complaint?

Mr. HOLMES. That is correct.

Senator BEALL. And you asked the county to furnish you systemwide information on this general complaint, or did you accept an offer to go into a school of your choosing and look at the nature of the complaint?

Did you initially ask for systemwide information?

Mr. HOLMES. No. We asked for information with respect to five schools initially.

Senator BEALL. Did you accept an offer to go into one school?

Mr. HOLMES. I do not know whether an offer was made to go into one school. An appointment was made, I understand, with the principal of one of the elementary schools, and our investigator went to that school to talk to the principal, and the principal was not there. And I understand that the investigator returned to the superintendent's office at that time, at which time the school board attorney was in attendance, and we were advised that we would not be able to obtain the information or interviews. I think that is correct.

Senator BEALL. Now, the specific complaints.

At the same time you were getting into the general complaint, did you go into specific complaints?

Mr. HOLMES. We did not have the specific complaints.

Senator BEALL. You had them shortly thereafter?

Mr. HOLMES. No. This general complaint came in, in the spring of 1973. It was not until late winter, early spring, 1974, that the individual complaints came to our attention.

Senator BEALL. What have you done with the individual complaints?

Mr. HOLMES. Mr. Gerard, would you answer?

Mr. **Gerard**. Mr. Chairman, on August 23, accompanied by Mr. Jefferson, my staff and Mr. Nixon of the Philadelphia Regional Office, and Miss Williams of our Philadelphia Regional Office——

Senator **Beall**. August 23, 1973, or 1974?

Mr. **Gerard**. Seventy-four. I met again with Mr. Carter, deputy superintendent, at which time I gave him copies of the complaints that we had received.

It is our practice usually when we have the permission of the complainant to bring the complaint to the full attention of the school administration under review. Mr. Carter received those complaints, examined them, and subsequently I offered the names of a number of schools in the system which we wished to review on site.

The schools mentioned in the individual complaints were listed. They were at the top of the list, I might say, so we could proceed with the disposition of the individual cases complaints first hand.

Senator **Beall**. Now, the schools you are talking about, were they the schools from which you received the complaint, only those schools?

Mr. **Gerard**. They were schools named in the individual complaints from the parents.

Senator **Beall**. Those complaints came in April of 1974, and you met in August of 1974 on those complaints?

Mr. **Gerard**. That is correct.

Senator **Beall**. So part of that time, the year preceding the investigation was being conducted on the basis of the letter containing the general complaints?

Mr. **Gerard**. That is correct.

Mr. **Holmes**. Senator, if I may interrupt. The sessions in the summer of 1973 of the school officials were in response to the complaint that we have just provided you.

Senator **Beall**. Which I have—I had the covering letter, and I did not recognize it.

Mr. **Holmes**. I had hoped we had not given you the wrong information.

During the winter of 1973–74, January of 1974, the school district made application for assistance under the Emergency School Aid Act.

Now, in my testimony I refer to the fact that in passing the Emergency School Aid Act, ESAA, the Congress specifically prohibited discrimination in the area of discipline as a condition precedent to establishing eligibility.

The fact that the district applied at that time led us to request further data on disciplinary actions from the school district, and the data specifically requested involved some 34 schools.

It was during the winter and early spring of 1974 that we were unable to obtain from the school district additional disciplinary data to make an assessment in the context of a pre-grant determination under ESAA.

And at that point you became involved in the matter, and finally, at a very late time, a day or two before final funding decisions for ESAA had to be made, that information was finally provided us by the school system.

So I wanted to state this, because we not only have the summer of 1973 activity with regard to the general complaint, but also early 1974 information requested regarding ESAA.

Senator **BEALL**. In order to put this in perspective, because I think we are concerned about the depth of the inquiry, and the basis of the kind of complaints made, the general complaints ought to be included in the record at this point, because, for instance, the complaint is that the school has refused to let children eat lunch at the school.

There is the complaint that some of the students have had their lunch periods cut, losing 10 minutes or so as punishment. There is the complaint that students who do not buy their lunch are put into a separate room near the bathroom.

There is the complaint that the supervision of lunch in the cafeteria is so poor that the children are harassed and aggravated. There is the complaint that too many children have been expelled or suspended without due process, and suspension has been prolonged for as much as 5 months.

Then the county, of course, I think responded to these questions, and I would suggest that we put the response of the county in the record at this time following the complaints, because the county did respond to these complaints rather specifically.

[The documents referred to follow:]

CHRONOLOGY OF EVENTS

HEW Investigation of Student Discipline Practices

Anne Arundel County Maryland Public Schools

July 1973 to Present

LIST OF ATTACHMENTS

A - 1	Complaints from the Parents' Association.
A - 2	Statement from Mr. Theodore Nixon to Dr. Anderson.
A - 3	Letter from Mr. William Norman to Mr. Theodore Nixon.
A - 4	Schedule for Mr. Nixon's visit.
A - 5	Letter from Mr. Dewey Dodds to Dr. Anderson.
A - 6	Letter from Mr. Dewey Dodds to Dr. Anderson.
A - 7	Letter from Lewis Alsobrook to Mr. James Wego.
A - 8	School system comments on Parents' Association complaints.
A - 9	Letter from Mr. Dewey Dodds to Dr. Anderson.
A - 10	Letter from Dr. Anderson to Mr. Dewey Dodds.
A - 11	Letters to Congresswoman Marjorie S. Holt, Senators J. Glenn Beall and Charles Mc. Mathias, and to Secretary Caspar W. Weinberger from Dr. Anderson.
A - 12	Letter from Mr. Dewey Dodds to Dr. Anderson.
A - 13	Letter from Mr. Dewey Dodds to Dr. Anderson.
A - 14	Letter from Senator Mathias to Dr. Anderson.
A - 15	Letter from Senator Beall to Dr. Anderson with attached copy of letter from Senator Beall to Secretary Weinberger.
A - 16	Letter from Senator Beall to Dr. Anderson with attached letter from Secretary Weinberger to Senator Beall, and attached letter from Senator Beall to Mr. Weinberger.
A - 17	Letter from Secretary Weinberger to Dr. Anderson.
A - 18	Letter from Dr. Anderson to Senator J. Glenn Beall.
A - 19	Memos from Mr. Berry Carter to Dr. Anderson.
A - 20	Letter from Senator Beall to Dr. Anderson with attached letter from Frank Carlucci to Senator Beall.
A - 21	Letter from Lewis Alsobrook to Mr. James Wego.

HLA/st/wp

LIST OF ATTACHMENTS

	A - 22	Article, "U.S. Probe of Schools Resuming"
	A - 23	Article, "U.S. Civil Rights Team to Tour Arundel District"
	A - 24	Letter from Mr. Gerard to Dr. Anderson
	A - 25	Telegram from Mr. Holmes to Dr. Anderson
	A - 26	Telegram from Dr. Anderson to Mr. Holmes
	A - 27	File memorandum of meeting between Mr. Holmes and counsel and Dr. Anderson and counsel
	A - 28	Memo from Mr. Carter to Dr. Anderson
	A - 29	Letter from Mr. Gerard to Mr. Carter
	A - 30	Letter from Mr. Carter to Mr. Gerard with attached Suggested Guidelines and Agreements
	A - 31	Letter from Mr. Holmes to Dr. Anderson
	A - 32	Letter from Dr. Anderson to Mr. Holmes
	A - 33	Letter from Mr. Holmes to Dr. Anderson with attached resumes on Mr. Jefferson and Mr. Spitz
	A - 34	Letter from Coungresswoman Holt to Dr. Anderson
	A - 35	Notes of interview with Mr. Acito, Mr. Carter, Mr. Jefferson and Mr. Gerard
	A - 36	Letter from Dr. Anderson to Mr. Holmes
	A - 37	Letter from Mr. Holmes to Dr. Anderson
	A - 38	Letter from Dr. Anderson to Governor Mandel with attached letter from Dr. Sensenbaugh to Governor Mandel
	A - 39	Letter from Dr. Anderson to Mr. Holmes with attached Withdrawals from Anne Arundel County Public School's-'73-'74
	A - 40	Letter from Governor Mandel to Dr. Anderson with attached letter from Governor Mandel to Dr. Sensenbaugh and attached letter to Governor Mandel from Mr. Holmes
	A - 41	Letter from Mr. Holmes to Dr. Anderson
	A - 42	Letter from Mr. Holmes to Governor Mandel
	A - 43	Notes on phone call Mr. Carter received from Mr. Gerard
	A - 44	Notes on phone call between Mr. Carter and Mr. Jefferson
	A - 45	Notes on phone call from Mr. Gerard to Mr. Carter
	A - 46	Letter from Dr. Anderson to Mr. Holmes
	A - 47	All charges submitted by OCR
(See)	A - 48	Compiled list of all material given HEW, OCR
	A - 49	Letter from Thomas J. Wohlgemuth to Ms. Christine D. VerPloeg
	A - 50	Letter from Ms. Christine VerPloeg to Thomas J. Wohlgemuth
	A - 51	Letter from Thomas J. Wohlgemuth to Ms. Christine D. VerPloeg
	A - 52	Letter from J. Stanley Pottinger to Honorable Edward S. Northrop
	A - 53	Letter from Thomas J. Wohlgemuth to Honorable Edward S. Northrop
	A - 54	Letter from Edward S. Northrop to Ms. Christine D. VerPloeg
	A - 55	Letter from Thomas J. Wohlgemuth to Dr. Edward J. Anderson

CHRONOLOGY OF HEW INVESTIGATION OF DISCIPLINE IN THE ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

July 24, 1973

The school system is visited by Mr. Theodore G. Nixon and a team of investigators from the Office of Civil Rights from the Region III office of the Department of Health, Education and Welfare. The investigators state that complaints have been received that our discipline procedures are biased against minority students. A copy of these complaints is enclosed as attachment A-1.

Mr. Nixon requests permission to examine all student records in connection with this complaint. (See attachment A-2)

July 25, 1973

A letter is given to Mr. Nixon refusing permission to examine individual student records, as this is a violation of the Maryland confidentiality law. (See attachment A-3) Mr. Nixon and his associates are scheduled to meet with school personnel throughout the day. These personnel include two central office administrators, as well as administrators from five schools. Mr. Nixon keeps the first appointment, but does not show up for any of the others. No explanation is received. (See attachment A-4)

August 8, 1973

A letter is received by Dr. Edward J. Anderson, Superintendent of Schools, from Mr. Dewey E. Dodds, Civil Rights Director for Region III. This letter states that our files should be opened to HEW investigators, and that if they are not, it will be necessary for the regional office to refer the matter to the Office of the General Counsel. (See attachment A-5).

September 12, 1973

A discussion is held between school officials and Mr. James Wego of the regional office. It is mutually agreed that records will be supplied but that no names will be included with these records.

September 18, 1973

Dr. Anderson receives a letter from Mr. Dewey Dodds of the regional office. Mr. Dodds states that he feels that the matter of access to information has been resolved by the September 12th conference, and that his August 8th letter regarding possible referral of the matter to the Office of General Counsel is no longer applicable. (See Attachment A-6)

October 15, 1973

A letter is sent to Mr. James K. Wego of the regional office by Dr. Lewis Alsobrook of the Anne Arundel County Public Schools. Enclosures with this letter include a summary of serious behavior problems, a summary of behavior referral records for Annapolis Senior High School, a listing of suspensions for Annapolis and South-county secondary schools, detailed information on suspensions, a report of the Committee for Crisis Prevention and Intervention, Citizen Advisory Committee policy guidelines, Maryland Pupil Data System Manual of Instruction, procedures relating to school grievances, and student handbooks from Annapolis and south-county secondary schools (See Attachment A-7)

October/November, 1973

Mr. King from the regional office visits the school system. He visits the Annapolis Elementary School and the Learning Center. The complaints received from the regional office in July are discussed in detail with him. (See attachment A-8)

January 22, 1974

A letter is sent to Dr. Anderson from Mr. Dodds of the regional office. Mr. Dodds states that we will have to supply him with information in order to be certified as eligible for funds under the Emergency School Aid Act (ESAA). The information requested includes: information on all black coaches back through the year 1961; for 34 schools in which Mr. Dodds feels that disciplinary actions have a disproportionate impact on minority students, we are requested to supply the name, race, date, offense, and penalty for each student discipline in those schools during the past three years; a narrative description of our district's disciplinary rules on a school by school basis; a complete disciplinary log on each student enrolled in the Learning Center; a complete disciplinary log on each student referred to local authorities such as juvenile court, police department, and other such agencies; an explanation of the existance of classes in 15 schools which HEW feels are either racially identifiable or racially isolated; an explanation as to why students are not included on our ESAA Adult Advisory Committee; and a verification of a non-discriminatory status of the St. Jane Frances School.

The school system is given 15 days to provide this information. (See Attachment A-9)

January 25, 1974

Dr. Edward J. Anderson sends a letter to Mr. Dodds stating he feels that Mr. Dodds letter of January 22nd is uncalled for and an example of arrogance. (See Attachment A-10).

January 28, 1974

Dr. Anderson addresses letters to Congresswoman Marjorie Holt, Senators J. Glenn Beall and Charles Mc Mathias, and to Secretary Caspar W. Weinberger expressing concern over the nature of Mr. Dodds requests in his letter of January 22. (See attachment A-11)

February 8, 1974

A letter is sent by Mr. Dodds to Dr. Anderson. Mr. Dodds states that since Dr. Anderson feels some of the information requested is unreasonable and not in accordance with the law, he will be happy to discuss this with Dr. Anderson and make adjustments in his request. (See attachment A-12)

February 12, 1974

Mr. Dodds sends a letter to Dr. Anderson. Mr. Dodds restates that additional student records will be required in order for HEW to certify our eligibility for ESAA funds, and in order to continue their investigation concerning the complaint that our school district discriminates against minority students in applying disciplinary sanctions. (See Attachment A-13)

A letter is also received on this date by Dr. Anderson from Senator Mathias, in which he states his interest and concern in the matter, and hopes that HEW and the school district can come to agreement. (See attachment A-14)

February 18, 1974

Senator Beall writes to Secretary Weinberger expressing concern about the magnitude of the information requested by HEW, and asking that the specific legal authority for the HEW inquiry into disciplinary action be cited.

A copy of this letter is forwarded to Dr. Anderson. (See attachment A-15)

March 1974

Dr. Lewis Alsobrook of the Anne Arundel County Public Schools and Mr. James Wego of the regional office discuss the current status of the discipline investigation by phone.

Senator Beall sends to Dr. Anderson a copy of a letter he received from Secretary Weinberger dated March 20, as well as a copy of his March 26 reply to Secretary Weinberger.

Secretary Weinberger, in this letter, defends the requests of the regional office made to Dr. Anderson.

Senator Beall, in his reply to Secretary Weinberger, requests a copy of each complaint received by HEW about the Anne Arundel County Public Schools, and the results of each investigation. (See attachment A-16)

March, 1974

Secretary Weinberger writes a letter to Dr. Anderson. Secretary Weinberger defends the requests of Mr. Dewey Dodds, and states it is his understanding that agreement on what information is to be sent has been reached in a telephone conversation between Dr. Lewis Alsobrook of the school system and Mr. James Wego of the regional office. (See attachment A-17)

April 4, 1974

. Dr. Anderson sends a letter to Senator Beall. In this letter he clarifies some of the information requested by HEW, expresses concern about HEW's insistence on looking at disciplinary records in the schools, and expresses concern that HEW is suggesting we discipline students according to some kind of racial quota. (See attachment A-18)

April 11, 1974

Mr. C.B. Carter, Deputy Superintendent, sends 2 memos to Dr. Anderson. Mr. Carter expresses confusion as the exact nature of HEW requests at this point in time. (See attachment A-19)

April 23, 1974

Senator Beall writes a letter to Dr. Anderson enclosing a copy of a latter from Frank Carlucci, Acting Secretary of the Department of HEW, and requests that Dr. Anderson forward additional information to Senator Beall's office.

Acting Secretary Carlucci, in his letter to Senator Beall, states that the parent complaint from July, 1973, is the only matter under investigation by HEW at this time. (See attachment A-20)

April 24, 1974

Dr. Lewis Alsobrook of the Anne Arundel County Public Schools sends a letter and enclosures to Mr. James A. Wego of the regional office. These enclosures include a listing of all suspensions for the 1972-73 school year by race; a listing of all suspensions for the first four months of 1973-74 school year, by race; a summary of serious behavior problems for the 1972-73 and 1973-74 school years; and an explanation that disciplinary logs from each school are not enclosed because they are unavailable in many cases, having been destroyed at the end of the prior year, and because we lack the time and man power to compile them for other schools. (See attachment A-21)

June 11, 1974

Mrs. Ross, secretary to Dr. Anderson, receives a call from a Mr. Dave Gerard, Program Coordinator, Office of Civil Rights, requesting an appointment with the Superintendent of Schools. He offers no information concerning the reason for or the subject of the meeting requested.

Within fifteen minutes of Mr. Gerard's call the school system's Office of Information and Public Relations receives a call from The Evening Capital newspaper (Annapolis) asking if that office will confirm that, "HEW is sending a team of investigators from its Civil Rights Office to conduct a further inquiry into the charge of racial discrimination in student practices in the Anne Arundel County Public Schools".

June 12, 1974

An article headlined "U.S. Probe of Schools Resuming" appears in the Evening Capital (Annapolis) quoting a Louie Mathis, spokesman for HEW's Office of Civil Rights, as saying, "a special team of three (3) investigators from the Washington office will meet with school Superintendent Edward J. Anderson to discuss the new phase of HEW's probe into the matter of student discipline." (See attachment A-22)

June 13, 1974

An article headlined, "U.S. Civil Rights Team to Tour Arundel District" appears in the Baltimore Sun. (See attachment A-23)

June 17, 1974

Dr. Anderson, Superintendent of Schools, receives a letter from Mr. Dave Gerard, Program Coordinator, Office of Civil Rights, notifying him of an appointment scheduled for 1:30 P.M. June 19, and stating that the purpose of the meeting is to discuss, "the objectives and procedures of an inquiry by this office into alledged racial discrimination in the student disciplinary practices in the schools of Anne Arundel County". Additionally, the letter states that Mr. Gerard will be accompanied by a Mr. Stephen Spitz of the Office of General Counsel and a Mr. Theodore Nixon, Equal Opportunity Specialist, from the Philadelphia Regional Office. (See attachment A-24)

June 18, 1974

At the direction of the Superintendent of Schools, Mr. C. B. Carter, Deputy Superintendent of Schools, calls Mr. Dave Gerard of the Office of Civil Rights and cancels the meeting proposed for the next day, Wednesday, June 19, and expresses the school system's concern for the manner in which the matter is proceeding especially, the stories appearing in the local press and Mr. Gerard's proposal to bring a "team" of investigators with him.

June 19, 1974

Dr. Anderson receives telegram from Mr. Holmes reminding him of school district's obligation to comply with Title VI compliance requirements and indicates failure to comply may result in termination of Federal assistance. (See Attachment A-25)

Dr. Anderson sends return telegram to Mr. Holmes requesting a meeting, with counsel, to discuss procedures to be used in any OCR investigation of the county schools. (See Attachment A-26)

June 20, 1974

Meeting in Mr. Holmes office, Washington, D.C., between Mr. Holmes and counsel and Dr. Anderson and counsel, results in agreement to proceed with investigation following the development of procedural guidelines to be constructed by Mr. Gerard, OCR, and Mr. Carter, Anne Arundel County Public Schools. (See Attachment A-27)

July 1, 1974

Mr. Carter meets with Mr. Gerard to begin development of procedural guidelines. (See Attachment A-28)

July 9, 1974

Mr. Carter receives letter from Mr. Gerard explaining nature of proposed investigation and setting forth a 3-phase review of "student disciplinary practices." (See Attachment A-29)

July 10, 1974

Mr. Carter responds to Mr. Gerard's letter of July 9, indicating school districts' willingness to cooperate and encloses a set of proposed "Guidelines and Agreements". (See Attachment A-30)

August 9, 1974

Dr. Anderson receives letter from Mr. Holmes rejecting school districts' guidelines and informing that he has instructed Mr. Gerard to proceed with investigation beginning with a visit to the school district on August 21, 1974. (See Attachment A-31)

August 14, 1974

Dr. Anderson writes Mr. Holmes protesting that the position he has taken in his letter of August 9 does not reflect the agreements reached in their meeting of July 20 concerning the development of procedural guidelines. (See Attachment A-32)

August 19, 1974

Mr. Holmes writes Dr. Anderson, "we are communicating at cross-purposes" and indicating that OCR will not "bargin" concerning methods to be used in its investigation of the school district. (See Attachment A-33)

August 21, 1974

Mr. Gerard, Jefferson, Spitz, OCR, arrive at Superintendent's office meet with Mr. Carter, White, Noel, A.A.County Public Schools. Discussion ensues regarding nature of investigation, information desired, confidentiality of student records, interview procedures. Information from State Law, State Board of Education By-Laws, Local Board Policy, etc. given to OCR team.

August 23, 1974

Mr. Gerard, Jefferson, OCR, return to school district, interview, Mr. Carter, Deputy Superintendent, Mr. Noel, Consultant in Community Affairs, Mr. Turner, Special Assistant to Superintendent - more material regarding student discipline given OCR team. Carter requests copy of specific charges against school district, is informed can't be made available until clearance is received from complaints.

Carter asks Gerard to permit transcripts of interviews, Gerard promises to discuss with Holmes.

August 28, 1974

Dr. Anderson, receives letter from Congresswoman Holt requesting details of HEW, OCR, investigation. (See Attachment A-34)

Information concerning status of investigation sent Mrs. Holt, Senator Beall and Senator Mathias.

September 11, 1974

Mr. Gerard, Jefferson, Nixon, M's. Williams, OCR, meet with Carter, White, Alsobrook, Anne Arundel County Public Schools. Further discussions regarding procedures. Carter asks again for specific charges. Gerard discloses charges for first time (Annapolis Parent's Association, Mrs. Johnson, Mr. Gentry). Charges discussed. Concern arises and is expressed over accuracy of OCR's interview procedures. Carter again requests that interviews be transcribed. Gerard agrees again to submit questions to Mr. Holmes.

During the afternoon interviews are held with Mr Acito, Special Assistant to the Superintendent and with Mr. Carter. (See Attachment A-35)

September 12, 1974

Mr. Gerard calls Mr. Carter. Says, "No answer for you yet concerning transcript of interviews, going to see Holmes 4:30 p.m., will call you with decision tomorrow".
Gerard requests Withdrawal and Suspension Data for 73-74, and copy of Deputy Superintendent's Suspension Log. Is told Withdrawal and Suspension Data requested will be sent as soon as available from computer. Access to Deputy Superintendent's Suspension Log denied because it is kept by name of individual student suspended.

September 16, 1974

Dr. Anderson writes Mr. Holmes saying that review of charges indicates they are insubstantial, that school district has cooperated with interviews and considerable information and in the absence of formal charges considers the investigation completed. (See Attachment A-36)

September 27, 1974

Mr. Holmes writes Dr. Anderson indicating that he does not consider the investigation to be completed and requesting within 10 days: (See Attachment A-37)

1. a breakdown by race of student dropouts - 1973-74.
2. a copy of Deputy Superintendent's log of disciplinary action 1973-74.
3. access to schools selected by Mr. Gerard - starting with the Learning Center, appointments with principals, counselors, teachers, and access to such school records as might be pertinent.
4. any and all written statements, issued by principals .... handbooks, notices, memoranda, logs and other papers.
5. a breakdown by race for current school year and fall, 73-74 of students' referred to principals for disciplinary reasons.......
   (See Attachment A-37)

October 7, 1974

Dr. Anderson writes Governor Mandel expressing concern over direction of HEW, OCR, investigation. (See Attachment A-38)

October 9, 1974

Dr. Anderson writes Mr. Holmes that school district has complied with all demands contained in Holmes' letter of September 27, except for those that would constitute a violation of Maryland Statute on Confidentiality of Student Records and informing that he has expressed concerns to the Governor of Maryland. (See Attachment A-39)

Governor Mandel writes Dr. Anderson indicating that he has asked Maryland State Board of Education to conduct a hearing into HEW, OCR's. charges. (See Attachment A-40).

October 17, 1974

Mr. Holmes writes Dr. Anderson notifying of his intent to refer matter to Department of Justice. (See Attachment A-41)

October 21, 1974

Mr. Holmes writes Governor Mandel detailing OCR's position. (See Attachment A-42)

October 25, 1974

Mr. Carter receives call from Mr. Gerard, "might school district choose to comply voluntarily?" (See Attachment A-43)

October 30, 1974

Mr. Carter calls Gerard. "Gerard out sick." Jefferson takes call, promises to have Gerard return call when he gets in. (See Attachment A-44)

October 31, 1974

Gerard returns Carter's call. Carter extends invitation from Dr. Anderson to Mr. Holmes to meet with him in county, try to resolve disagreements, visit Learning Center and other selected schools. (See Attachment A-45)

November 5, 1974

Mr. Holmes calls Dr. Anderson indicates that school district must agree to investigation "without reservations" and notifies that he is referring matter to Department of Justice.

November 6, 1974

Dr. Anderson writes Mr. Holmes indicating that school district has cooperated fully in all matters except release of student records and desire to have interviews transcribed and offers to continue cooperating if OCR will agree to cooperate in these two areas. (See Attachment A-45)

(See Attachment A-47 - all charges submitted by OCR)

(See Attachment A-46 - Compiled list of all material given HEW, OCR, in investigation of student discipline Anne Arundel County Public Schools).

A-1

[illegible]
P. O. Box 1984
Annapolis, Maryland

May 5-75

THE GENERAL NATURE OF OUR COMPLAINTS

We have recieved complaints that the school has refused to let children eat lunch at the school and that some of these children who have been refused are on the Federal Lunch Program.

Is there anyone here to rebut or deny this?

We have recieved complaints that some students have had ther lunch periods cut, loosing 10 minutes or so as punishment.

Is there anyone here to rebut or deny this?

We have recieved complaints that students who do not buy ther lunch are put into a separate room near the bathroom.

Is there anyone here to rebut or deny this?

We have recieved complaints that the supervision of lunch in the cafeteria is so poor that the children harassed and aggrevated.

Is there anyone here to deny this?

We have recieved complaints that too many children have been expelled or suspended without due process and suspension has been prolonged for as much as five months. Suspension is also oftened open-ended.

Is there anyone here to deny this?

We have recieved complaints that some children are recieving harsh punishment for insignificant and trivial acts. The punishments outweigh the acts.

Is there anyone here to rebut or deny this?

We have recieved complaints that whole groups have been punished when only one person is guilty.

Is there anyone here to rebut or deny this?

We have recieved complaints that children have been embarassed by being searched to the extent of turning their pockets insideout - at times without even an understood charge or reason for the search.

Is there anyone here to rebut or deny this?

We have recieved complaints that some children as punishment had bags placed over their hads and were ordered to sit near the room heater.

Is there anyone here to rebut or deny this?

We have recieved complaints that some children as punishment for talking were forced to stand on a stool with their hands over their head for a specific length of time.

Is there anyone here to rebut or deny this?

We have recieved complaints that staff have ridiculed children on matters of personal hygeine in public.

Is there anyone here to rebut or deny this?

We have recieved complaints that children have been allowed to fo to the bathroom or drink water only once a day.

Is there anyone here to rebut or deny this?

We have recieved complaints that the Black experience has not been included in all of the curriculum.

Is there anyone here to rebut or deny this?

We have recieved complaints that the school is severely overcrowded hampering the quality of education.

Is there anyone here to rebut or deny this?

Parents attempts to discuss problems in Annapolis Elementary School have been met with insults to the point of having doors slammed in their faces and total lack of concern on the part of the staff of the school.

A-2

July 24, 1973

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

By the notification contained in this letter, we hereby request permission to examine all student records, policies, procedures, etc. maintained by the Board of Education of Anne Arundel County in connection with a complaint filed with us regarding discrimination in cases of discipline as authorized under Title VI of the Civil Rights Act of 1964.

Theodore G. Nifor
Civil Rights Specialist
Office for Civil Righ
Health Education + Welfa

A-3

July 25, 1973

Mr. Theodore G. Nixon
Civil Rights Specialist
Office of Civil Rights
U.S. Department of Health,
Education and Welfare

Dear Mr. Nixon:

Dr. Anderson has referred to me your letter of July 24, 1973 "...requesting permission to examine all student records, policies, procedures, etc...."

I must refer you to the Maryland State Board of Education Bylaw 751:2 "Confidentiality" which provides that "Individual pupil records maintained by teachers or other school personnel under the provisions of the Code of Bylaws are to be confidential in nature, and access to such records may be granted only for the purpose of serving legitimate and recognized educational ends."

Therefore, with the advice of counsel, we must respectfully deny your request to examine any students' records without consent of the parents as provided in Bylaw 751:3.

We will be happy to provide you with copies of any policies and procedures of the Board of Education of Anne Arundel County which would be helpful to you.

Sincerely,

William Norman
Administrative Assistant to
the Associate Superintendent

July 25, 1973

Schedule for Mr. Nixon, et. al.

Dr. Anderson's office

9:30 a.m.	Mr. Francis Noel, Consultant in Community Affairs
10:30 a.m.	Mrs. Shirley Milbourne, Principal, Annapolis Elementary School
1:00 p.m.	Mr. Paul Acito, Special Assistant to the Superintendent

Other schools:
- Annapolis Senior High
- Annapolis Junior High
- Bates Junior High
- Tyler Heights Elementary

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
REGION III
3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19101

AUG 8 1973

OFFICE OF THE SECRETARY
OFFICE FOR CIVIL RIGHTS

MAILING ADDRESS
P.O. BOX 13716
PHILADELPHIA
PENNSYLVANIA 19101

Dr. Edward J. Anderson
Superintendent
Anne Arundel County Schools
Annapolis, Maryland 21404

Dear Dr. Anderson:

On July 24, 1973, a staff team from this office headed by Mr. Theodore Nixon met with you and members of your staff concerning a complaint filed by the Parents' Association of Anne Arundel County. The complaint alleged discriminatory disciplinary treatment of minority group students in the schools of your district.

During the conference, Mr. Nixon requested that you provide the team with information relative to the disciplinary sanctions administered by your school district in general and by several specific schools in and around the Annapolis City area.

As you are aware, on July 25, Mr. William Norman, Administrative Assistant to the Associate Superintendent, acting in your behalf and with advice of counsel denied the team access to the requested information. Mr. Norman's letter to Mr. Nixon stated that the denial of access was based on Maryland State Board of Education Bylaw 751:2 Confidentiality of Individual Pupils Records.

It is the position of the Office for Civil Rights that its investigators are entitled to see all records kept by school districts which "may be pertinent to ascertain compliance" under Title VI of the Civil Rights Act of 1964. 45 C.F.R. 80.6(c) (emphasis added).

Title VI of the Civil Rights Act mandates that a public school district which receives Federal financial assistance must not in any way discriminate on the grounds of race, color, or national origin, against any student in the system. Such discrimination can take many forms, in addition to student assignment discrimination.

Any discrimination on the basis of race, color, or national origin by a school district infects the entire district with a discriminatory environment, and puts the entire district in violation of Title VI of the Civil Rights Act of 1964.

In order to determine whether a school district is operating in a discriminatory manner it is necessary to understand fully how the district operates. Such an understanding may require investigation in all schools in the district and it may entail the use of teacher or student folders from schools throughout the district. Such an investigation would be necessary to determine the compliance status of the district. As pointed out above, investigators from this Office would therefore be entitled to see those folders.

45 CFR Part 80.6 of the Federal Regulations published in the Federal Register on October 19, 1967, and subsequent amendments thereto, addresses the area of compliance information. It states:

"(a) Cooperation assistance. The responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) Compliance reports. Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. For example, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of and participants in federally-assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) Access to sources of information. Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law. (emphasis added)."

You are also reminded that your school district has recently been granted Federal financial assistance under the Emergency School Aid Act (ESAA). In order to become eligible for such assistance, you agreed to abide by civil rights-related assurances contained therein, including Section 185.13(k)(iv), Reports and information, which states: "--that the applicant will submit such reports containing such information in such form as the Secretary or the Assistant Secretary may require in order to carry out their function under the Act, and that the applicant will keep such records and afford such access thereto as will be necessary to assure the correctness of such reports and to verify them. Such records shall include:

(iv) Record relating to the practices or procedures referred to in 185.43(d) including specific information as to disciplinary sanctions (corporal punishment, suspension, expulsion, and the like) imposed upon minority and non-minority group children in every school operated by the applicant."

It is my understanding that my staff advised you of our right to access to the requested information under both the authority of Title VI of the Civil Rights Act of 1964, as well as the ESAA assurances. Failure to provide this information under these signed assurances could also result in an adverse effect on your ESAA grant. More specifically, action leading to a termination of said grant.

AUG 8 1973

Page 4 - Dr. Edward J. Anderson

If a district refuses to grant Federal investigators access to files, we would have no alternative but to refer the matter to the Office of the General Counsel for appropriate action. This may include the termination of all Federal financial assistance granted by the Department to the district.

It is requested that you formally notify this office within ten (10) days after receipt of this letter as to your decision regarding our Office's information request, including the access to records deemed necessary to pursue our responsibility under the law in our attempt to make a determination in the complaint. I sincerely hope that our office will not have to refer the matter to the Office of the General Counsel as explained earlier in the letter. Mutual cooperation continues to be our goal.

Sincerely yours,

Dewey E. Dodds
Regional Civil Rights Director

A-6

4-10-7

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
REGION III
3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19101

SEP 18 1973

OFFICE OF THE SECRETARY
OFFICE FOR CIVIL RIGHTS

MAILING ADDRESS
P.O. BOX 13716
PHILADELPHIA
PENNSYLVANIA 19101

Dr. Edward J. Anderson
Superintendent
Anne Arundel County Schools
Annapolis, Maryland 21404

Dear Dr. Anderson:

I have reviewed Mr. Wego's report of his conference with you and members of your staff on September 12 relative to the matters raised in our letter of August 8. The focus of the meeting was on your school district's denial of the requests for information made by our office in reference to the recent complaint filed against your district. A copy of that complaint alleging racially discriminatory disciplinary sanctions was provided to you during the July visit of our staff.

I am pleased that resolution of the access to information issue has been achieved, including the initial data to be provided to our office. As was explained at the meeting, the data is necessary in order that we might make a determination as to the validity of the complaint. This, of course, is standard procedure. It is my understanding that a general discussion transpired in which various situations were explored as they related to the possible types of data which theoretically could be requested. Mr. Wego reported that the possible information requests appeared to present no problem in terms of confidentiality according to you and your staff. He also indicated your position regarding careful specificity of the request, insofar as possible.

Based upon the mutual resolution of the matter of access to information, i.e., data requests, and the emphasis you placed on the full cooperation of your school district relative to the exercise of our office's responsibilities under the law, my August 8 letter which outlined possible referral of this matter to the Office of General Counsel is no longer applicable.

Mr. Wego also reported some concerns you raised related to the complaint investigation process. Please allow me to briefly comment on those concerns. It is our practice to share with school officials the specific nature of the complaint, insofar as possible. Depending upon the circumstances, this may be accomplished by written communication prior to an on-site visit or shared verbally on-site and confirmed in a subsequent letter. It is my understanding that the actual complaint on this occasion was shared with you during the initial on-site meeting.

Another point of inquiry concerned the position of a school district with respect to conducting its own examination of a complaint under review by the Office for Civil Rights. Certainly, a school district is not precluded from utilizing its own staff and/or procedures to examine same and attempt to resolve it. Our office stands ready to assist in an equitable resolution at any stage of an investigation. Our office endorses and encourages discussions between the respective parties, barring the request for anonymity by the complainant. It is our practice to encourage complainants to avail themselves of existing local procedures to resolve their difficulties. Again, failure to do so does not preclude their filing a complaint with this office.

The last point for inclusion per concurrence at the meeting is an affirmation of our mutual intent to facilitate and insure clear understanding of all matters between our respective offices through continued close liaison between Dr. Alsobrook and Mr. Wego as circumstances warrant. I trust that the foregoing comments provide the desired clarifications.

I look forward to receipt of the requested data in approximately ten days, as was mutually established by our respective staff members. Clarification and resolution of the matter discussed herein provides a firm foundation for pursuing our shared goal of fostering equal educational opportunity for all children.

Sincerely yours,

Dewey E. Dodds
Regional Civil Rights Director

H-1

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

188 Green Street
Annapolis, Maryland 21401
Telephone: 301-268-3345

October 15, 1973

Mr. James K. Wego
Education Branch Chief
DHEW/Office for Civil Rights
P.O. Box 13716
Philadelphia, Pennsylvania 19104

Dear Mr. Wego:

Enclosed is the information I promised to send you. The long delay was necessary due to the length of time it took to compile the material.

The enclosures include:

A. Summary of serious behavior problems by school

B. Secondary behavior referral summary for Annapolis Senior High School

C. Suspensions for Annapolis and South county secondary schools

D. Detailed information on suspensions

Also included are some items of a more general nature which are related to the problem. These include:

E. Report of the Committee for Crisis Prevention and Intervention

F. Citizen Advisory Committee Policy

G. Maryland Pupil Data System Manual of Instructions

H. Procedures Relating to School Grievances

I. Student handbooks from Annapolis and South County Secondary Schools

ARD OF EDUCATION:
— George Ascht, president, F. Carroll Smith, vice-president, Dr. Delores C. Hunt, Col. Raymond C. Smith, Charles G. Truffer, John B. Wright, Mrs. S. Edwin Zimmerman

Finally, I have included some comments about the fourteen complaints sent to you by the Parents' Association (see Exhibit J).

In regard to the Parents' Association, Mr. James Dunagan, Area Director for the Annapolis-South County Area, and I met with Mrs. Woods, Mr. Kennedy, and the members of the Parents' Association on the evening of October 4. We concentrated on listening to their concerns about the schools. I believe that lines of communication were successfully established, and subsequent meetings have been set up to explore mutual concerns in more depth.

We reemphasized with Mrs. Woods, and I would reemphasize with you, that it is our desire that no one be treated unfairly. When any citizen or student has a legitimate complaint, we hope they will follow the procedures outlined in Exhibit H, or contact the Area Director or Superintendent's office directly if it is a matter which requires immediate attention. We treat all such complaints fairly, with no preconceived notions that one side or the other is right.

I hope the enclosed information is useful to you. Please call on me if explanations of the information or more data are required.

Sincerely,

H. Lewis Alsobrook
Officer for Program Planning
and Evaluation

HLA:jh
Enc.

The Parents' Association

The General Nature of Complaints

1. We have received complaints that the school has refused to let children eat lunch at the school and that some of these children who have been refused are on the Federal Lunch Program.

Comment

It is possible that this occurred, but if it did, it was accidental. This was certainly not the result of deliberate policy on the part of the school system. Moreover, it is extremely difficult for us to investigate this type of complaint because of its very general nature. Any action on our part would require more specific information--when did this occur? where did this occur? who was involved? If we had such information, we could investigate this complaint completely and if it were true take action to insure that the situation would not be repeated by the parties involved.

2. We have received complaints that some students have had their lunch periods cut, losing ten minutes or so as punishment.

Comment

It is possible that this occurred. Again, it is not an action that we would condone, and had specific information been presented to us when this occurred, we could have taken action.

3. We have received complaints that students who do not buy their lunch are put into a separate room near the bathroom.

Comment

This is entirely true, but we feel that it is not a legitimate matter for a complaint. In Annapolis Elementary School, the cafeteria is small. During the 1972-73 school year, students who brought bag lunches ate in a classroom sized area located off of the basement corridor. Mr. Wego has seen this area. Our feeling is that the area was adequate for the purpose.

4. We have received complaints that the supervision of lunch in the cafeteria is so poor that the children are harassed and aggravated.

Comment

Any problems that occurred in the cafeteria during the last school year were probably due to the fact that the school used only two lunch shifts. Thus the cafeteria was quite crowded when in use. This fact was probably more the cause of problems than was poor supervision. Again, this is something we could have looked into more thoroughly had we received specific information during the school year.

Note: This year the school uses three lunch periods. All children eat in the cafeteria and conditions are much better since there is no overcrowding.

5. We have received complaints that too many children have been expelled or suspended without due process and suspension has been prolonged for as much as five months. Suspension is also often open-ended.

Comment

Procedures for expulsion as well as for due process in such cases are clearly outlined in state law and we follow these to the letter. Every expelled student is made aware, in writing, of the existing appeal procedure. A sample of such a letter is enclosed as Exhibit K.

As for suspensions, normally, a letter goes home to the parents with the causes and time set for a conference clearly indicated.

In the case of extended suspensions, approval of the superintendent is required. So it is possible that a student is suspended for five months or on an open-ended basis, but when this is done, it is always with just cause. A sample letter for an extended suspension also appears in Exhibit K.

Again, this is a complaint that it is difficult to comment on because no specifics are presented.

6. We have received complaints that some children are receiving harsh punishment for insignificant and trivial acts. The punishments outweigh the acts.

Comment

It is impossible to comment on this complaint without more specific information.

7. We have received complaints that whole groups have been punished when only one person is guilty.

Comment

In a school system as large as ours, this probably occurs from time to time. Again, it is certainly not due to the school system's policy because we consider this to be very ineffective means of discipline.

8. We have received complaints that children have been embarassed by being searched to the extent of turning their pockets inside-out--at times without even an understood charge or reason for the search.

Comment

The administrative procedures under which principals operate allow them to request that children turn their pockets inside-out if the principals have

reason for doing so, such as, possible possession of something that was stolen or illegal. We have been informed by the State's Attorney that we are acting within the doctrine of in loco parentis when we do so.

9. We have received complaints that some children as punishment had bags placed over their heads and were ordered to sit near the room heater.

Comment

This is a complaint impossible to investigate without specific details. However, until we received this information, we had never heard of its happening in the school. Certainly, it is something we would never condone. The Superintendent has stated that if he knew of a teacher doing this, that teacher would be out of a job immediately.

10. We have received complaints that some children as punishment for talking were forced to stand on a stool with their hands over their heads for a specific length of time.

Comment

Once more, this is something we would never condone, but without specifics about when, where, and who was involved, it is very difficult to investigate further.

11. We have received complaints that staff have ridiculed children on matters of personal hygiene in public.

Comment

In a school system this size, it is possible that staff do ridicule children. It is certainly not our policy that teachers do so. Such action is always strongly discouraged.

Again, specific information is required before we can act on such complaints.

12. We have received complaints that children have been allowed to go to the bathroom or drink water only once a day.

Comment

My comments for complaint 11 apply here.

13. We have received complaints that the Black experience has not been included in all of the curriculum.

Comment

Anyone who can make a statement such as this is simply not familiar with our curriculum, especially, the new social studies curriculum now being introduced in the schools.

4. We have received complaints that the school is severely overcrowded hampering the quality of education.

Comment

During the 1972-73 school year, Annapolis Elementary School operated at capacity--it was not overcrowded. This year, the school is 125 below capacity so there is certainly no problem with overcrowding.

One of the major problems with this series of complaints is that they are so general in nature. What we need are specifics. It is difficult to comment on hearsay. Complaints are made to our office all of the time. When specifics are presented, we always investigate thoroughly and take whatever corrective action is necessary.

A-9

DEPARTMENT OF HEALTH. EDUCATION. AND WELFARE
REGION III
3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19101

JAN 22 1974

OFFICE OF THE SECRETARY
OFFICE FOR CIVIL RIGHTS

MAILING ADDRESS.
P.O. BOX 13716
PHILADELPHIA
PENNSYLVANIA 19101

Dr. Edward J. Anderson
Superintendent
Anne Arundel County Schools
Annapolis, Maryland 21404

Dear Dr. Anderson:

We have received your school district's application for funding under the Emergency School Aid Act (ESAA). A review of the application has determined that additional information is required in order to certify your district's compliance with the ESAA assurances.

Mr. Edward Stofko of your staff was notified by telephone on January 14, 1974, as to the specific information which is needed. Following is confirmation of the basis for the information and the specific regulatory section regarding same.

Demotion or Dismissal of Minority Group Personnel

Section 185.43(b) addresses the disproportionate demotion or dismissal of minority group staff.

A review of your district's application indicates that of 85 head coaches employed by your district in 1973-74, none are black. There were 31 white and 4 black head coaches of sports in the school district prior to desegregation; this constitutes a 100 percent reduction of black coaches. In addition, it raises questions concerning your recruitment and hiring practices of head coaches. It is necessary that our office receive the following material:

> The name of each black coach employed by your district, including the years 1961 to the present; the sport he/she coached prior to and immediately following desegregation; the school in which he/she was employed; his/her salary/supplement before and after desegregation; his/her reason for leaving; and his/her last known address and telephone number.

Discrimination Against Children

Section 185.43(d)(4) addresses the imposition of disciplinary sanctions in such a manner as to discriminate against minority group children.

A review of your district's DHEW fall enrollment reporting form indicates that disciplinary sanctions have had a disproportionate impact on minority students in a substantial number of your schools, many of which were not included in our original information request.

1. Annapolis Elementary
2. Cape St. Claire Elementary
3. Central Elementary
4. Davidsonville Elementary
5. Cromwell Elementary
6. Germantown Primary
7. Germantown Intermediate
8. Harmon Elementary
9. Hillsmere Elementary
10. Manor View Elementary
11. North Glenn
12. Parole Elementary
13. Shady Side
14. Tyler Heights
15. Van Bokkelen Elementary
16. Andover High
17. Annapolis Junior High
18. Annopolis Senior High
19. Anne Arundel Junior High
20. Anne Arundel Senior High
21. Bates Junior High
22. Brooklyn Park Junior/Senior High
23. Corkron Junior High
24. George Fox Junior High
25. Glenn Burnie Senior High
26. Lindale Junior High
27. McArthur Junior High
28. Marley Junior High
29. North East Senior High
30. Severna Park Junior High

31. Severna Park Senior High
32. Southern Junior High
33. Southern Senior High
34. Learning Center

For each of the above schools, please provide information for each student similar to that provided in the attached worksheet for the school years 1971-72, 1972-73, and 1973-74. At your own discretion, you may or may not wish to use the attached worksheet for organization of the material. Each student should be listed separately and the actions against that student should appear under his/her name. Please list each student only once. In addition, please provide the information below for each school.

A. A narrative description of the district's disciplinary rules including:

(1) What are the rules of conduct?

(2) Who determines violations and what standards are used to make such determinations?

(3) What standards for application of rules are written?

(4) How are teachers informed of these standards?

(5) How are students informed?

(6) What is the suspension process?

(7) What is the expulsion process?

(8) Who metes out the punishment?

(9) What options of punishment are available?

B. The same as (A) above for each school which has different or additional standards.

It is our understanding that all students in the Learning Center are there largely because they have been disciplinary problems in other schools within the county. It is therefore requested that the above information be provided for each student now enrolled in the center and whose referral to that school was based upon disciplinary factors.

It is also our understanding that there is a procedure by which, on occasion, certain students with disciplinary problems may be referred to the local authorities such as juvenille court, police department and other such agencies. Please also provide the same kind of information as listed above for each student referred to such agencies.

Racially Isolated and/or Racially Identifiable Classes

Section 185.43(c) and (d)(5) prohibits the assignment of students to classes in such a manner as to discriminate against minority group children by assigning them to classes which are racially identifiable or racially isolated.

A review of your application and your fall report forms revealed that racial isolation in certain classes exist at the following schools.

School		Grade
1.	Brooklyn Park	1
2.	Crofton	K
3.	Folger	K
4.	Four Seasons	5, 4, 1
5.	Freetown	1
6.	George Cromwell	6, 4, K
7.	Hilltop	5/6
8.	Millersville	2
9.	North Glenn	K
10.	Parole	8 & Special Ed.
11.	Severn	1

The following schools according to your application and the fall report forms appear to have racially identifiable classes, some of which may be due to ability grouping procedures.

1. Georgetown East
2. Germantown Primary
3. Hillsmere
4. Manor View
5. Tyler Heights

Please verify and explain the existence of any racially identifiable or racially isolated classes in schools listed above and others which were not listed. Also, please indicate those schools which use ability grouping.

Other questions discussed with Mr. Stofko and appropriate actions requested included:

A. Improper formation of Adult Advisory Committee. Students were not included.

B. Transfer of public property or services to private schools. The nondiscriminatory status of the St. Jane Francis School was not addressed in the application.

It is necessary that you submit this information as soon as possible but not later than 15 days after receipt of this letter, in order that we may complete the processing of your application. If there are any questions or need for clarification regarding the requests, please do not hesitate to call at your earliest convenience.

Sincerely yours,

Dewey E. Dodds

Dewey E. Dodds, Director
Office for Civil Rights
Region III

Enclosure

e	Race	Date	Offense	Penalty	Length of Suspension	Expulsion

A-10

January 25, 1974

Mr. Dewey E. Dodds, Director
Office for Civil Rights
Region III
Department of Health, Education,
and Welfare
3535 Market Street
Philadelphia, Pennsylvania 19101

Dear Mr. Dodds:

Your letter of January 22, 1974, requesting information has been received. The following quote is from a staff member who I asked to review your request:

> "How much money are we talking about? Is it enough to buy this school system?
>
> "Rev. Dodds has created a masterful piece of fictional literature. I'd really be concerned if I thought he were serious."

As for me, Mr. Dodds, your unmitigated arrogance is surpassed only by your incompetence as demonstrated by your uncalled-for letter.

Sincerely,

Edward J. Anderson
Superintendent of Schools

EJA:mmr

January 23, 1974

The Honorable Marjorie S. Holt
Member of Congress
1510 Longworth House Office Building
Washington, D. C. 20515

Dear Mrs. Holt:

I am enclosing a copy of a letter I received from the Director, Office of Civil Rights, Region III, and a copy of my reply.

As you may know, we in Anne Arundel County have done everything humanly possible to achieve a good working relationship between the races, and I firmly believe that our system can stand the most rigid examination by impartial authorities. On the other hand, I think the actions of the so-called "Civil Rights Office" should be brought to the attention of every member of Congress and to the entire American public. These people are systematically attempting, and in some cases succeeding, in turning the races against each other and in destroying the American Public School System.

It is the most assinine and cruel thing that has ever happened in this Nation, and I think it is indeed time for Congress to look into this monster which has been created. We in Anne Arundel County would be more than willing to stand up and be counted and to be investigated in every way by responsible authorities. This is such a serious matter that I do not think any of us can any longer stand still. I would urge some action on your part if it is possible.

I have written also to Senators J. Glenn Beall and Charles Mc. Mathias, and to Secretary Caspar W. Weinberger expressing my very deep concern.

A-12

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
REGION III
3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19101

FEB 08 1974

OFFICE OF THE SECRETARY
OFFICE FOR CIVIL RIGHTS

MAILING ADDRESS
P.O. BOX 13716
PHILADELPHIA
PENNSYLVANIA 19101

Dr. Edward J. Anderson
Superintendent
Anne Arundel County Schools
Annapolis, Maryland 21404

Dear Dr. Anderson:

This will acknowledge receipt of your letter of January 25, 1974, which we received on February 4, 1974.

The Office for Civil Rights has been given the responsibility to review the civil rights assurances in applications for ESAA funding. Where there is inadequate information to make a determination, we have no alternative but to request additional information. My letter of January 22, 1974, was written with regard to this obligation. You apparently feel that some of the information requested is unreasonable and not in accordance with the law. I would be more than pleased to discuss these areas with you and to make adjustments if we have gone beyond our obligations.

As you know a final determination on eligibility must be made by March 1. It is my hope that we can resolve any differences we have and that Anne Arundel County will be eligible to receive funding under ESAA II.

Sincerely yours,

Dewey E. Dodds

Dewey E. Dodds, Director
Office for Civil Rights
Region III

13

2-14-7

DEPARTMENT OF HEALTH EDUCATION AND WELFARE
REGION III
3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19101

FEB 12 1974

OFFICE OF THE SECRETARY
OFFICE FOR CIVIL RIGHTS

MAILING ADDRESS
P.O. BOX 13716
PHILADELPHIA
PENNSYLVANIA 19101

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

This will supplement our letters of January 22 and February 8, 1974, regarding requests for information from your school district.

As you are aware, our office continues to have on active file a formal complaint against your school district alleging discriminatory disciplinary sanctions against minority students. Initial information was gathered during the fall. However, analysis of that data and examination of the annual (1973) DHEW fall enrollment survey forms submitted by your district indicate that additional information is necessary before any conclusive determination can be made regarding the complaint. Such information regarding disciplinary sanctions was one of the items addressed in our January 22 letter.

During a previous on-site discussion this fall, it was explained that should you desire, the names of students could be obliterated on any collated information but that a coded roster of some type, i.e. numbered listing to be kept by your district, is necessary in the event that a specific instance or case needs to be pursued. This remains as a viable procedure. The matter of information access and reporting was also addressed in an August 8, 1973, letter.

It is imperative that the complaint be expeditiously processed both under mandates and authority of the Emergency School Aid Act and Title VI of the Civil Rights Act of 1964. Additionally, adherence to the section of the ESAA regulations dealing with provisions for requiring nondiscriminatory treatment of students must be verified.

As was mentioned in our February 8 letter, our staff stands ready to discuss any difficulties in the gathering of the data and which may require modifications in terms of necessary time parameters, etc. or any other factors; certainly, the matter is open to reasonable and mutual adjustment.

We trust your school district will expeditiously address preparation of the data and therefore facilitate verification of your district's continued eligibility with the nondiscriminatory requirements of the Emergency School Aid Act. Please contact Mr. James K. Wego, Chief, Elementary and Secondary Education Branch or myself at (215) 597-6791 and 597-6772, respectively, at your earliest convenience. Time is of the essence for the Office of Education deadline date for eligibility and determinations under the new grants is soon upon us as referred to in the February 8, letter.

Sincerely yours,

Dewey E. Dodds

Dewey E. Dodds, Director
Office for Civil Rights
Region III

14

2-14-74

[illegible]

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

February 12, 1974

Edward J. Anderson
Superintendent of School
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

My staff has been in conctact with officials of the Office of Civil Rights at the Department of Health, Education, and Welfare, concerning that office's request for additional information from the Anne Arundel County Public Schools. As you are undoubtedly aware, the law requires HEW to make determinations as to whether or not schools are in compliance with school desegregation guidelines. Such determinations result from HEW's review of information which local school systems, such as your own, file with the Agency.

While such information is necessary and required by law, I am concerned that the burden of reporting not become so onerous as to itself create difficulties for local systems. I recognize that your primary duty is to administer the school systems and that is, indeed, a time-consuming and worthwhile purpose.

The office of Civil Rights informs me that they have re-reviewed their request to you of January 22, 1974, and is willing to reconsider whether all of the information requested is necessary. In particular, it is noted that all of the material under discipline might not be needed and that reporting done to-date might prove adequate. I also understand that the department has written a letter to you indicating that, if you think any requests are unreasonable, they will be glad to sit down and work them out. I understand that you will be invited to contact Dewey Dodds, Director of the Office for Civil Rights, Region #3, concerning these requests.

I hope that this has been helpful and that whatever difficulties due to required reporting will be minimized by such discussions.

Please feel free to write again as the occasion might warrant.

With best wishes.

Sincerely,

Charles McC. Mathias, Jr.

Charles McC. Mathias, Jr.
United States Senator

CM:qrd

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United States Senate
COMMITTEE ON COMMERCE
WASHINGTON, D.C. 20510

February 18, 1974

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

I received your letter with respect to the HEW regional office's unreasonable request of you.

I am enclosing a copy of a letter I wrote to Secretary Weinberger expressing my concern and dismay and urged reversal thereof.

It was a pleasure to look into this matter for you.

With best wishes, I am

Sincerely yours,

J. Glenn Beall

J. Glenn Beall, Jr.

JGB/bas
enclosure

[illegible]

[illegible], STAFF DIRECTOR
[illegible], CHIEF COUNSEL

United States Senate
COMMITTEE ON COMMERCE
WASHINGTON, D.C. 20510

February 18, 1974

The Honorable Caspar W. Weinberger, Secretary
Department of Health, Education, and Welfare
Washington, D. C.

Dear Mr. Secretary:

This marks the second time in dealing with Maryland school districts that your Philadelphia office has taken action that flies in the face of common sense.

The first such incident involved the Somerset County School system where in an effort to achieve the "proper black-white teacher ratio" in each of Somerset County's schools, HEW was requiring the complete transfer of teachers nine weeks prior to the closing of the school year. Unbelievable, but true! Fortunately, HEW came to their senses and delayed the order until September.

At that time I did not believe that action could be topped, but the latest incident leads me to believe that the HEW regional office has done the impossible. Specifically, what your Director, Mr. Dewey E. Dodds, has demanded of Anne Arundel County is a record of the disciplinary action by race of the County's 25,000 school children, a thirteen year history of the coaches in the district, and a listing of racially isolated classrooms.

Now, I assume that to impose such a burden on a school district the regional director must have had numerous complaints and that he has verified the validity of such complaints. Therefore, I would like to have a list of each complaint that the Director has received, the investigation that he has undertaken, and the results thereof for each such incident. Also, section 503 of the Education Amendments of 72, Public Law 92-798, requires the listing of "specific legal authority --- of each rule, regulation, or guideline."

I would, therefore, appreciate your citing for me the specific legal authority for your inquiry into disciplinary action.

You know, Mr. Secretary, I have heard you and Under Secretary Carlucci, speak about the merits of regionalization, about the competent individuals that you have placed in the regional offices and how it is in the best interest of all of the states to support such regionalization. I do not know the personnel in the regional office, and they may be very competent. However, the actions in this instance certainly raise questions with respect to their common sense. I do know that if this incident, and the former to which I referred, reflect the strength of your regional offices, I can only say that it should be no mystery why the Administration's regionalization proposal has gone no where with the Congress.

I cannot help but comment on that portion of the letter which says "it is necessary that you submit this information as soon as possible, but no later than fifteen days after receipt of this letter", with a threat that if not, they may lose federal funds. I have asked my staff to check our regular constituent letters to HEW and I find that we have been waiting replies from weeks to months. For the most part the facts necessary for HEW to respond are known and all that needs to be done is respond. Yet the Department takes longer for this mail than the County would be given for information they do not readily have and which may be against Maryland State law to produce.

Finally, I have spoken to numerous parents in the State of Maryland and I must say that the expressions that I have received do not indicate that our citizens feel that there is too much disciplinary action taken by the schools, but rather if anything, too little. Furthermore, if students are disturbing the classroom and preventing other children from learning, what does your district director suggest be done -- nothing?

The Honorable Caspar W. Weinberger
February 18, 1974
Page Three

I urge the Department to reverse the action of the regional office so as to enable the school district to focus on educational problems and not paper work generated by HEW.

With best wishes, I am

Sincerely yours,

J. Glenn Beall, Jr.

JGB/bas

03

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United States Senate
COMMITTEE ON COMMERCE
WASHINGTON, D.C. 20510

March 28, 1974

A-16

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

Enclosed is a copy of a letter I received from Secretary Weinberger regarding my inquiry with respect to Anne Arundel County.

I am also enclosing a copy of my letter of March 26, 1974 to Secretary Weinberger in an effort to be of further assistance in this matter.

As soon as I receive a response, I will be back in touch with you.

With best wishes, I am

Sincerely yours,

J Glenn Beall Jr

J. Glenn Beall, Jr.

JGB/bas
enclosures

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

Honorable J. Glenn Beall, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Beall:

Please accept my apology for the delay in responding to your letter of February 18 relating to the information requests made of Anne Arundel County school officials by the Department's Philadelphia Office for Civil Rights (OCR).

I fully appreciate your concerns and hope the following information is helpful in outlining the OCR responsibilities in obtaining information that will enable us to properly carry out the specific responsibilities imposed upon the Department by the United States District Court for the District of Columbia in Adams v. Richardson (351 Fed. Supp. 636) as well as the statutory requirements of Title VII of the Education Amendments of 1972 which, as you know, is referred to as the Emergency School Aid Act. The Department was directed by the Court to take immediate action to secure compliance of forty-two school districts with Title VI of the Civil Rights Act of 1964. Anne Arundel County was one of the school districts which the Court specifically cited in this respect. Anne Arundel school officials have, of course, also applied for ESAA funds. The Act is very specific concerning school district funding eligibility and information requested pursuant to the requirements of the statute is relevant to the determination of the Title VI compliance of the district.

Concerning employee demotions, in Section 706 (d) (1) (B) of the Act, the Congress provides that:

> No educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title . . . . had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups . . . .

Anne Arundel began its desegregation process in 1961 when it had 31 white and 4 black head coaches. At the time of the filing of its ESAA application, all 85 head coaches in the district were white. Therefore, it was necessary under the statute for the Office for Civil Rights to obtain additional information from the district in order to determine whether the disproportionate loss of black coaches was the result of discrimination.

Concerning classroom assignments, Section 706 (d) (1) (C) provides that no educational agency shall be eligible if, after the date of enactment of the Act, it has:

> In conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping . . . .

A review of Anne Arundel County's application and the forms which it filed with the OCR this past fall showed racial isolation and racial identifiability in several classes. In order to determine if that racial isolation or identifiability was the result of discrimination, it was necessary to request additional information from the district related to the method by which students are assigned to classes.

Concerning student disciplinary policies, Section 706 (d) (1) (D) provides that an educational agency is ineligible for assistance if it has:

> had in effect any other practice, policy, or procedure which discriminates among children on the basis of race, color, or national origin.

The Office for Civil Rights received a complaint from a parent group at the Annapolis Elementary School alleging race discrimination in the disciplining of students. The parent group charged that seven black students had been suspended for a total of 225 days while no white students had been suspended and that this was a violation of Title VI of the Civil Rights Act of 1964. Representatives of the Philadelphia office went to the district in July to investigate the complaint, but were refused information. In September, representatives again went to the district and an agreement was reached to release records with students' names deleted. The district furnished information for five schools.

Subsequently, the district sent in its fall enrollment forms which showed that disciplinary sanctions in the district had disproportionate impact on minority students in some 34 schools and the district was requested to provide information on those schools. The Philadelphia Office for Civil Rights continues to investigate this issue and has determined, based on school district information, that 27 percent of students suspended in the 1972-73 school year were black while the total black enrollment was only 13 percent.

As to your view that perhaps too little disciplinary action is taken in Anne Arundel County Schools, the Department would comment only that whatever the disciplinary policy it should be administered without discrimination because of race, color, or national origin.

I hope you will agree that the above cited provisions of the Emergency School Aid Act place certain information requirements on the Office for Civil Rights if it is to do its enforcing job judiciously. Careful attention to these requirements is particularly important in light of the District Court's orders in *Adams* v. *Richardson* directing this Department to continue to carefully scrutinize (and report to the Court) any and all pertinent information relating to the Title VI compliance status of the district. In this regard, Section 185.13 (k) details the reports and information an applicant for ESAA funds agrees to provide the Department.

I hope this information is helpful. Please let me know if I may be of further assistance.

Sincerely,

/s/ Caspar W. Weinberger

Secretary

March 26, 1974

The Honorable Caspar W. Weinberger
Secretary
Department of Health, Education, and Welfare
Washington, D. C.

Dear Mr. Secretary:

I appreciate your letter explaining the Department's request to Anne Arundel County for various information.

While your letter was generally responsive, it failed to answer one of the important questions I raised. I will quote from my letter: "Now, I assume that to impose such a burden on a school district, the regional director must have had numerous complaints and that he has verified the validity of such complaints. Therefore, I would like to have a list of each complaint that the director has received, the investigation that he has undertaken, and the results thereof for each such incident.

I would appreciate having this specific information.

With best wishes, I am

Sincerely yours,

J. Glenn Beall, Jr.

JGB/sas

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

MAR 26 [illegible]

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

Please accept my apology for the delay in responding to your letter of January 28 in which you criticized the "actions of the so-called Civil Rights Office."

I regret that you believe the Department's Office for Civil Rights, in its negotiations with the Anne Arundel County School District, has done harm to good race relations. I assure you that this is not the intention of the Department or its Office for Civil Rights as it enforces anti-discrimination requirements of both Title VI of the Civil Rights Act of 1964 and the Emergency School Aid Act.

I have referred your letter to Mr. Martin H. Gerry, Acting Director of the Office for Civil Rights, and he has assured me that Mr. Dewey Dodds, Director of the Philadelphia Office for Civil Rights is very highly regarded as a competent and professional Federal employee. In fact, Mr. Dodds, with whom you have been negotiating, was elevated to his Philadelphia position following an exemplary performance as Atlanta Office for Civil Rights Branch Chief for Elementary and Secondary Education. Needless to say, in that former position, Mr. Dodds was responsible for hundreds of successful negotiations with school districts that were desegregating pursuant to Federal law.

Concerning the information requested for the district by Mr. Dodds and his staff, I understand that, following a February 19 telephone conversation between your administrative assistant, Dr. Lewis Alsobrook, and Mr. James Wego of the Philadelphia OCR, Dr. Alsobrook said he would mail information by February 26. Further, Mr. Wego indicated to Dr. Alsobrook that the information should be as complete as possible but that where certain information was not available that this would be explained. Upon receiving the information, the Philadelphia OCR will make a determination of its sufficiency to meet the eligibility requirements for ESAA funding for your district.

Please accept my assurance that the Department always seeks to carefully and reasonably negotiate information requirements. Of course, I hope that our efforts prompt improved race relations but particularly that they lead to the elimination of discrimination as required by laws and regulations.

I hope this information is helpful. Please let me know if I can be of further assistance.

Sincerely,

Caspar W. Weinberger

Secretary

April 4, 1974

Honorable J. Glenn Beall, Jr.
United States Senate
Senate Office Building
Washington, D. C. 20510

Dear Senator Beall:

Thank you for your letter of March 28, 1974 and the copy of Secretary Weinberger's letter of March 20. In reviewing Secretary Weinberger's letter, we noted that it contained some misinformation and we would like to comment on these points.

Page 1 of the Secretary's letter states they were concerned about possible discrimination on our part against black coaches since we once had four black head coaches but now have none. Actually, we now employ 12 black head coaches. The statement that we had none was an error in our original application. This error was corrected over a month ago, and the Philadelphia office has the correct information, although it apparently did not reach Secretary Weinberger before he wrote you.

At the top of page 2, Secretary Weinberger speaks of some of our classes being racially identifiable and racially isolated. Mr. Dodds' January 26th letter to us spoke of 16 schools with this "problem." In most cases, it is just not true. For example, HEW-OCR complained about the racial distribution in grade 1 at Four Seasons Elementary School. There are four classes of first graders, with the blacks divided 1, 1, 2, and 2. If OCR can find a more equitable way of dividing six students among four classes, we would most certainly be willing to listen!

In other cases, there is not an absolutely even split of blacks among classes. For example, the OCR complained about grade 2 at Millersville Elementary School and grades 5 and 6 at Georgetown

East Elementary School. At Millersville, there are four (4) grade 2 classes, with the blacks divided 4, 0, 3, and 5. The three (3) fifth grade classes at Georgetown East have the blacks divided 8, 9, and 10; the three sixth grade classes there have the blacks divided 13, 9, and 9. Admittedly, the black children in these schools are not divided absolutely evenly, but there is certainly no isolation and no attempt to segregate them. The children were assigned on a random basis, and it would do harm to shift them around this late in the year to try to achieve some kind of "optimal desegregation" through dividing black children equally among available classes.

The third section of Secretary Weinberger's letter deals with a complaint from a parent group which claimed that we discriminate against blacks in applying our disciplinary standards. A copy of the original complaint is enclosed for your review, along with some comments of our own about each item.

During the original investigation of this complaint by HEW-OCR last summer, an official from the Philadelphia office demanded the right to peruse all disciplinary records in all of our schools. On the basis of the Maryland confidentiality law we refused. Subsequently, HEW asked for discipline and suspension information, by race but without names, for five schools. We supplied the data and thought the matter closed.

When Mr. Dodds wrote us in January, he again asked for disciplinary information in connection with this complaint- this time for 34 schools, and again with names in violation of the Maryland confidentiality law. We again refused, and this is when we asked for your help in the matter.

The major point that disturbs us is that a determination of whether or not we disciplined in a discriminatory fashion is being made by HEW on the basis of numbers alone. To quote from Secretary Weinberger's letter, he says:

> The Office for Civil Rights received a complaint from a parent group at the Annapolis Elementary School alleging race discrimination in the disciplining of students. The parent group charged that seven black students had been suspended for a total of 225 days while no white students had been suspended and that this was a violation of Title VI of the Civil Rights Act of 1964.

In cases such as this, we are very concerned that we can be adjudged guilty of violating the Civil Rights Act just because we suspend more students of one race than another. If in a given school, students of one race are suspended more than students of another, it is because students of that race have been doing things which merit suspension. It is certainly not true that they were suspended because they belonged to a particular race. (It is interesting to note that in the school complained about, the black children were suspended by a black principal).

Also, we would have a complete breakdown in discipline in our schools if we were forced to discipline students according to a racial quota as Secretary Weinberger suggests. We would have difficulty maintaining order if we were not allowed to suspend a black student unless we suspended a white student, or not allowed to send a black student to detention unless we sent a white student there also, etc.

The question of interest should not be whether we discriminate unequally by suspending more students of one race than another. The real question, which HEW seems to ignore, should be whether we discipline students of different races unfairly. That is, if we verbally reprimand a white student for a certain offense, and suspend a black student for the same offense under the same circumstances, then we could be considered guilty of discrimination in applying our disciplinary sanctions. But, to reiterate, we don't believe the decision about discrimination should be made on the basis of numbers of students suspended.

Thank you for your continued help in this matter. We shall keep your office posted on further developments.

Sincerely,

Edward J. Anderson
Superintendent of Schools

Enclosure

Dr. Anderson

C. Berry Carter, II
April 11, 1974
Dr. Alsobrook ✓

Conversation with Senator Beall's Office
(HEW, Civil Rights Office)

Received a call this a.m. from Joe Carter, Aide to Senator Beall. He wanted to know if we had received copies of the latest correspondence between the Senator's office and HEW??? (He has directed that copies of the correspondence be sent to us).

They, Senator Beall's people, have talked with HEW's Philadelphia office and have been told that the Philadelphia office does have "specific complaints" about us concerning discrimination in matters of discipline with minority students and that they "need to see" the disciplinary records for "one school".

Mr. Carter said further, that what we decide to do is our decision, but that he wanted to remind us that the deadline for compliance is April 19.

CBC/mr

Dr. Anderson
C. Berry Carter, II
April 11, 1974
Dr. Alsobrook

Conversation With Joe Carter, Senator Beall's Office

Spoke with Joe Carter, Senator Beall's office, this p.m. Explained to him what we view as discrepancies between what HEW tells them they are asking us for (disciplinary information on one school) and what HEW tells us they are asking for (disciplinary information on 34 schools).

Also referred him to Dodd's letter to you of September 18, 1973 indicating our compliance, *e.g.*, "I am pleased that resolution of the access to information issue has been achieved ....".

Indicated that we are at this time frankly confused about what HEW wants from us, or, where we stand in the process. He said, "thank you very much we'll follow up and be in touch with you".

CBC/mr

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J. GLENN BEALL, JR., MD.
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MICHAEL PERTSCHUK, CHIEF COUNSEL

United States Senate
COMMITTEE ON COMMERCE
WASHINGTON, D.C. 20510

April 23, 1974

A-20

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

Enclosed is a copy of a letter I received from the Department of Health, Education, and Welfare. You were supposed to receive a copy directly from the Department, but I noticed that they did not indicate that a copy had been sent.

Also, in your April 4 letter to me, you make reference to the fact that "seven black students had been suspended for a total of 225 days." Would it be possible for you to provide me with a listing of each suspension of the seven students and the reason therefor? Of course, I am not interested in the students names and you may just refer to them as Student A, B, C, etc. I appreciate your cooperation.

With best regards, I am

Sincerely yours,

J. Glenn Beall

J. Glenn Beall, Jr.

JGB:bf

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

APR [illegible] 1974

Honorable J. Glenn Beall
United States Senate
Washington, D.C. 20510

Dear Senator Beall:

Thank you for your letter of March 26 concerning the Department's requests for information from Anne Arundel County school officials. I understand your concerns.

You suggest that before the Department's Philadelphia Office for Civil Rights asks for information it receive numerous complaints and verify the validity of such complaints. Further, you ask for a list of those complaints, the investigation undertaken on each complaint, and the results of each investigation. That suggestion and request is perhaps based on a misunderstanding. I hope I can explain.

When enforcing the various anti-discrimination provisions of Federal law, including Title VI of the Civil Rights Act of 1964 and Emergency School Aid Act provisions and regulations, any single complaint is given serious consideration and can lead to a request by the Department for information from a federally assisted school district. The Department, of course, must first determine if it has the proper authority and responsibility before investigating. Before a complaint is investigated, additional information generally is required to determine a complaint's validity. This protects the school district against possibly spurious complaints. I should also point out that it has been the Department's experience that an investigated single complaint can reveal a pervasive pattern of discrimination which violates the law and regulations at which time the Department seeks to negotiate corrective action by the school district.

As to a list of specific complaints against Anne Arundel, the only complaint which we received which gave rise to our investigation with respect to disciplinary actions was the parent complaint referred to in the last two paragraphs on page two of my March 20 letter to you. We cannot complete our investigation of this complaint until we have received the requested information from the district.

Page 2 - Honorable J. Glenn Beall, Jr.

As the letter points out, the district-furnished information showed that disciplinary sanctions in the district had a disproportionate impact on minority students. The Department asked for additional information to determine the reason for that disproportionate impact with the purpose of trying to fairly determine if disciplinary actions by the district have been discriminatory.

Incidentally, Department Office for Civil Rights officials in Philadelphia understand that District officials have obtained certain information and await contact by your office before submitting it.

I hope you can assist the Department in this regard so that we can more quickly assess the district's compliance status.

Again, I appreciate and understand your concerns and hope this letter is helpful in explaining the Department's position.

Sincerely,

/s/Frank Carlucci

Acting Secretary

A-21

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

188 Green Street
Annapolis, Maryland 21401
Telephone 301 268-3345

April 24, 1974

Mr. James K. Wego
Education Branch Chief
DHEW/Office for Civil Rights
P.O. Box 13716
Philadelphia, Pennsylvania 19104

Dear Mr. Wego:

Enclosed is the information we discussed this morning.

Enclosure A includes listing of our suspensions. Part A-1 is a listing of all our suspensions for 1972-73, by race. Part A-2 is a listing of all our suspensions for the first four months of the 1973-74 school year, again by race. I can forward you suspension information for January and thereafter if you wish, but I don't have it in my office to send you today. Suspension listings were not compiled by race for the 1971-72 school year and before.

Enclosure B is a summary of serious behavior problems. Part B-1 is a repeat of this information for the 1972-73 school year as we sent it to you last summer. Part B-2 is a summary of this information for the 1973-74 school year to date. The format for this year's report is considerably different in that it is much more complete than the prior year's. This information was not compiled for the 1971-72 school year and before.

The disciplinary information requested for 34 schools for three years in Mr. Dodds' January letter is not enclosed. As we explained, only a small number of schools record such information, and even where it is kept, in most cases it is destroyed at the end of each school year. And for those schools which do record information about disciplinary action, we simply lack the time and manpower to compile it at this time.

BOARD OF EDUCATION:
G. George Aseni, president, F. Carroll Smith, vice-president, Dr. Delores C. Hunt, Col. Raymond C. Smith, Charles G. Trotter, John W. Wright, Mrs. S. Laura Zimmerman

I hope the enclosed information fulfills your request and insures our eligibility for an ESAA II grant. Please don't hesitate to call if you have any questions about the data.

Sincerely,

H. Lewis Alsobrook
Officer for Program Planning
and Evaluation

HLA:jh
Enc.

U.S. probe of schools resuming

EVENING CAPITAL
WEDNESDAY,
JUNE 12, 1974

By KAREN HOSLER
Staff Writer

Investigators from the U.S. Health, Education and Welfare Department are scheduled to return to Anne Arundel County next week to resume a [illegible] into the [illegible] of [illegible] students here, an [illegible] said yesterday.

Louis Mathis, spokesman for HEW's Office of Civil Rights in Washington, said a special team of three investigators from the Washington office will meet with school superintendent

A windfall to ease desegregation impact. See Page 10.

Edward J. Anderson next Wednesday to discuss the new phase of the probe, which Mathis described as "more comprehensive than has been done to date."

Mathis said the investigators will be examining "the whole issue of discipline in the entire school system to determine whether it was [illegible]."

Anderson was not available for comment on the new probe yesterday, [illegible]

The HEW probe began in [illegible] to a complaint filed May 11, 1973 by the Parents Association of Anne Arundel County, a group of black parents from the Annapolis area who [illegible] that the school system was disciplining minority group members more severely than whites for the same or similar infractions.

Investigators from the HEW regional office at Philadelphia visited school officials here last July [illegible], requesting student records from five schools in the Annapolis area.

A controversy arose from Anderson's refusal to release the student records, which he termed are confidential under a state Board of Education bylaw.

HEW officials threatened to cut off all federal funding if the school system did not comply with the investigator's request for information and Anderson held up the use of [illegible] in federal grant money for the purpose of establishing intensive reading programs in schools affected by the court-ordered desegregation until the matter was resolved.

An agreement was finally reached in September when HEW officials agreed to accept an accounting of disciplinary incidents specifying the race of the students involved and what action was taken without requiring names or student records.

A second demand for information came Jan. 22 of this year when Dewey E. Dodds, director of the Philadelphia office, asked Anderson for three-year disciplinary histories of 25,000 students at 26 schools, a 10-year history of coaching in the county and a listing of racially mixed classrooms to determine whether racial bias was involved.

Anderson protested again saying that the information required was not only confidential but would take [illegible] full-time administrators six months to compile.

Another compromise was reached. In April the school system submitted to HEW a list of [illegible]

Neither list included the names of students involved.

Mathis could not supply any specific information about the nature of the new probe other than saying that it would not be confined to certain schools.

The investigators will [illegible] further into the discipline and [illegible], Mathis

June 13 1974

U.S. civil rights team to tour Arundel district

By ALFRED E. [illegible], JR.
Annapolis Bureau of The Sun

Annapolis—A federal civil rights team has told Anne Arundel county school officials it will visit the school district Wednesday to look further into possible racial discrimination in student discipline.

The visit is the latest [illegible] the Office of Civil Rights [illegible] over allegations of disproportionately heavier discipline of minority students.

Inspections, [illegible]

Twice in the last [illegible] the agency and the school administration have clashed over the right to discipline records. In both instances, compromises were reached giving the Office of Civil Rights access to statistical breakdowns of punishment in the schools. The concessions by the school district opened the way for federal grants for special reading programs.

The latest probe, however, is not linked to any specific grant, and the visit is being made by [illegible] not the Philadelphia regional office that in the past has conducted the search into school records.

The requests for information in the past gave rise to unconcealed outrage by school officials and at one point moved Representative Marjorie S. Holt (R., 4th) to insert her own scathing remarks in the Congressional Record.

The latest move, however, has been met with more of a sense of curiosity. "I'm not sure what they're after," said C. Berry Carter, the assistant to the school system's superintendent. "We thought everything was settled after the latest grant was approved."

A spokesman for the Office of Civil Rights yesterday said in a telephone interview that there is "no firm evidence" of discrimination in the 73,000-student school district, which was desegregated through busing last year.

"Just because there might be statistical differences in discipline doesn't necessarily mean there's been discrimination," the spokesman said.

The latest statistical accounts of discipline for major disciplinary problems, covering the 1972-1973 school year and the just-ended school year up to April 1, show that of the 331 students involved, 119 were black. This means that of the severest discipline problems, 31 per cent of the students involved were black. The school enrollment is 14 per cent black.

The difference is slightly smaller than that in New York city which, along with Baltimore and 18 other large cities, are being investigated by the Office of Civil Rights and a congressional subcommittee on equal opportunities.

The disproportionate levels of student discipline involving blacks in these cities is seen as a "second generation" racial problem by government officials, the spokesman for the Office of Civil Rights said.

"It's not as simple as racial imbalance in schools," the spokesman said.

Attention to the problem was apparently stimulated by a report issued last fall by the Robert F. Kennedy Memorial Foundation in Washington, and the Atlanta office of the Southern Regional Council. The report, entitled "Student Pushout," said minority students were being encouraged to leave school because they were punished more often and more severely than white students.

The spokesman said that if [illegible]

THE SUN
THURSDAY, JUNE 13, 1974

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

Attachment A-24

JUN 1 3 1974

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

This will confirm an appointment with you in your office at 1:30 p.m. June 19, 1974 as scheduled with your secretary on Tuesday, June 11.

The purpose of the meeting is to discuss the objectives and procedures of an inquiry by this office into alleged racial discrimination in the student disciplinary practices in the schools of Anne Arundel County.

Accompanying me will be Mr. Steven Spitz of our Office of General Counsel and Mr. Theodore Nixon, Equal Opportunity Specialist, Philadelphia Regional Office.

If you wish to discuss the purpose of the meeting beforehand, please call me at 202/245-6574.

Sincerely yours,

David Gerard

David Gerard
Program Coordinator
Elementary and Secondary
Education Division
Office for Civil Rights

cc: Director, Office for Civil Rights, Region III
Chief State School Officer

WU0030 (202459947)TDBT WASHINGTON DC 06-18 614P EDT

DOCTOR EDWARD ANDERSON SUPERINTENDANT OF SCHOOLS, DLR
ANNEARUNDEL COUNTY 115 GREEN ST
ANNAPOLIS MD

THE ANNE ARUNDEL SCHOOL DISTRICT HAS SUBMITTED TO THIS DEPT AN ASSURANCE OF COMPLIANCE WITH TITLE SIX OF CIVIL RIGHTS ACT OF 1964 AN APPLICABLE REGULATIONS. YOUR DISTRICT IS THEREFORE OBLIGATED PURSUANT TO 45CFR80.6(C) "TO PROVIDE TO THE RESPONSIBLE DEPT OFFICIAL WHO IS THE DIRECTOR OF THE OFFICE OF CIVIL RIGHTS OR DESIGNEE WHO MAY BE ANY PROPERLY AUTHORIZED OFFICIAL TO THIS OFFICE ACCESS DURING NORMAL BUSINESS HOURS TO SUCH OF ITS BOOKS RECORDS ACCOUNTS AND OTHER SOURCES OF INFORMATION AND ITS FACILITIES AS MAY BE PERTINENT TO ASCERTAIN COMPLIANCE THIS PART"

BY LETTER OF JUNE 13 1974 MR DAVID GERARD OF MY STAFF INFORMED YOU THAT A TEM OF SUCH DESIGNATED OFFOCIALS INCLUDING HIMSELF MR SPITZ OF THE OFFICE OF GENERAL COUNCIL AND MR THEODORE NIXON OF THE PHILADELPHIA REGIONAL OFFICE WOULD YOU ON JUNE 19TH FOR THE PURPOSE OF DISCUSSING ALLEGED RATIAL DISCRIMINATION IN STUDENT DISCIPLINARY PRACTICES IN THE ANNE ARUNDEL COUNTY BY TELEPHONE ON JUNE 18TH MR BARRY CARTER OF YOUR STAFF ON YOUR INSTRUCTION INFORMED MR GERARD THAT YOU WOULD REFUSE TO MEET WITH THESE PERSONS AT THE APPOINTED TIME OR AT ANY OTHER TIME IF MR NIXON WAS TO BE PRESENT. MR NIXON AS WELL AS THE OTHER PERSONS IS AN EMPLOYEE OF THE DEPT. OF HEALTH EDUCATION AND WELFARE OFFICE FOR CIVIL RIGHTS AND HAS BEEN DESIGNATED BY ME TO ENTER YOUR DISTRICT AND TO CONFER WITH YOU AND TO ASSIST IN CONDUCTING PROPER INVESTIGATIONS AS THESE ARE AUTHORIZED BY 45CFR8.6

IN THE ABSENCE OF A FORMAL WRITTEN RESPONSE FROM YOU SETTING FORTH PERCISELY YOUR REASONS FOR DENYING MR NIXONS ENTRY INTO YOUR SCHOOL DISTRICT FOR THE PURPOSES OF PERFORMING HIS LEGALLY ASSIGNED DUTIES I WOULD CONSTRAINED TO REQUEST IMMEDIATELY THAT THE OFFICE OF GENERAL COUNCIL INITIATE ACTION LEADING TO FORMAL ENFORCEMENT PROCEEDINGS WHICH COULD RESULT IN TERMINATION OF FEDERAL FINANCIAL ASSISTANCE TO YOUR SCHOOL DISTRICT OR OTHER MEANS AUTHORIZED BY LAW. I WOULD APPRECIATE A RESPONSE BY TELEPHONE INDICATING YOUR INTENTIONS IN THIS MATTER BEFORE 10AM JUNE 19TH WITHOUT THIS REPLY I WILL INSTRUCT MR GERARD MR SPITZ AND MR NIXON TO PROCEED TO THERE APPOINTMENT WITH YOU AT 1130 IN YOUR OFFICE

PETER E HOLMES DIRECTOR OFFICE FOR CIVIL RIGHTS.

To be read to Peter Holmes secretary by telephone:

[illegible] Mr. Holmes:

The Superintendent of Schools of Anne Arundel County Maryland requests a meeting with you, your legal counsel and Mr. Wohlgemuth, legal counsel for the Board of Education of Anne Arundel County, to discuss procedures to be used by any personnel of the Office for Civil Rights, Department of Health Education and Welfare, in the investigation of alleged discriminatory practices in Anne Arundel County. Until such a meeting is held, we respectfully decline to meet with any other personnel from the US Office for Civil Rights. We would suggest that you notify us of the time and place of such a meeting.

Rosanna Page –
receptionist in Holmes office
(Hispanic [illegible])
[illegible] 1-800-257-2211
(Bert Taylor – Holmes office)

E.1A,
SS.

[illegible] 820 [illegible]
[illegible] immediately

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

memo

TO file memorandum

FROM Bob White, IPR Officer

DATE June 21, 1974

SUBJECT HEW inquiry, student disciplinary practices

COPY TO

Notes on Dr. Anderson's briefing this morning re: yesterday's meeting with Peter Holmes, OCR director, in Washington:

— Holmes informed Anderson AA County would be used as "target system" for pilot project designed to uncover what H. calls "second generation discrimination" in nation's school systems

— A. pledged the cooperation of the school system in that project, but indicated serious concern that procedures to be used be spelled out in detail in advance to eliminate misunderstandings and to protect the rights of all involved (particularly the right of privacy and the right to due process/also, to nail down procedures w/regard to press handling, etc.)

— H. concurred with A. that proper procedures should be used, and that the inquiry should not, and would not, be conducted on an "ad lib" basis

-- H. said no more leaks to press from "informed sources" at OCR or he would know the reason why...

-- A. said press releases should be handled cooperatively. H. agreed. I am to coordinate all activities in this re: with Mathis at OCR

-- Gerard from OCR Carter will sit down and discuss in detail the procedures to be used, and H. and A. will sign a document spelling out these procedures before investigation begins

— Mathis and I will release document simultaneously to the press

— No releases to press without first making sure the info being released is in the hands of both parties, and in sufficient time for parties to analyze and react...

— No more "surprise headlines" if it can possibly be helped

— Until document containing guidelines for operational procedures is signed by H. and A., no comment from this office to press, other than to say both OCR and sch. system are continuing their discussion re: the investigation in an atmosphere of cordial cooperation

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

memo

TO: Dr. Edward Anderson

FROM: C. Berry Carter

DATE: July 2, 1974

COPY TO:

SUBJECT: Initial Meeting with Mr. Gerard, Office for Civil Rights, HEW, "Compliance Review."

Met this morning, July 1, 1974, 11:00 a.m., with Mr. Dave Gerard, Program Coordinator, Office for Civil Rights, HEW, to discuss the development of a document setting forth the conditions, understandings, limitations, and operating procedures that will attend a "comprehensive compliance review" of the school system by the Office for Civil Rights.

As a result of our meeting, Mr. Gerard agreed to send us, within the next week, (July 8 to July 12, 1974) a letter stating:

-the reasons for and the nature of the pending investigation
-a statement of the laws, bylaws, regulations, etc. granting review authority
-a description of the intended process
-a list of the proposed members of the investigating team
-an estimate of the intended time frame
-a proposal concerning press and media relationships.

Some background:

As a result of information developed and presented to Congress by the Southern Leadership Conference and The Robert F. Kennedy Foundation, the Office for Civil Rights has been notified to focus its immediate efforts upon "ferreting-out" and eliminating within "recently desegregated" public school systems, a condition identified as "2nd generation discrimination."

Mr. Gerard defines this term to mean "what goes on in the schoolhouse after it has been desegregated." Particular attention will focus on the belief that disciplinary actions within school systems are "unevenly applied" and fall disproportionately upon minority students.

We have been selected for "review" as a consequence of three specific complaints lodged with Office for Civil Rights alleging discrimination in the application of discipline controls, and as a result of an analysis of our data concerning suspensions, expulsions, withdrawals, dropouts, etc.

The Anne Arundel County Public School System will be the first school system to receive such an intensive investigation, and it is the hope of the Office for Civil Rights that what they "learn" here will serve as a "model" for similar efforts in other school systems.

It is proposed that the "review" consist of three phases:

> 1st Phase- Central Office -a review of official documents, regulations, procedures, etc. regarding student discipline and interviews with Central Office Personnel.
>
> 2nd Phase - School Based -A review of local school documents, discipline reports or logs, handbooks, etc. and interviews with school based administrators, teachers, and possibly some students.
>
> 3rd Phase - Community Based - Interviews with individuals and community groups and organizations.

It was agreed that arrangements for all visitations, interviews, conferences, etc. will be completed through a designated office at the Board of Education.

Finally, it was agreed that during the course of the "review" "nothing" about its progress or findings will be released to the press or news media by either agency.

Once the "review" is completed, any results, findings, recommendations, etc., will be submitted to the Superintendent of Schools. He may say about them or do with them as he pleases. After he has had a reasonable length of time to consider them and to respond to them, a report of the Office of Civil Rights findings and "compliance recommendations" will be released to the press under the requirements of the "Public Right to Information Law."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

JUL 9 1974

Mr. C. Berry Carter, II
Deputy Superintendent of Schools
Anne Arundel County Public Schools
158 Green Street
Annapolis, Maryland 21401

Dear Mr. Carter:

Our discussion on July 1, 1974 of the forthcoming compliance review of student disciplinary practices in Anne Arundel County schools did much to prepare for a cooperative effort between our respective agencies. This letter states my understanding of the conclusions reached on the subjects we talked about.

The compliance review, as I explained, has two purposes. First, this Office has received legitimate complaints from at least five parents who allege racial discrimination in student disciplinary actions in certain schools. These complaints, which will be made known to you, must be investigated thoroughly in order to determine whether the district has violated the provisions of Title VI of the Civil Rights Act of 1964. Second, the Office for Civil Rights has long been aware of the necessity for a deep inquiry into the questions of discrimination in discipline. Also, we have received requests by members of Congress and by national groups studying the effects of school desegregation to take a more active role in this area. For these reasons, the Office is presently undertaking a broad program to determine the extent to which discrimination in discipline exists, its forms, patterns and consequences and, equally important, methods for detecting and eliminating it. This Office has selected the Anne Arundel County Schools to be the first in a series of "pilot reviews" the results of which will be made available to our staffs in Washington and regional offices as they conduct reviews of other school systems with apparent compliance problems in this respect. A preliminary analysis of data on discipline actions in County schools shows that some problems of this nature may be present. If so, we wish to be able to identify them and to determine whether there are violations of Title VI of the Civil Rights Act of 1964.

The conduct of the review will generally consist of three phases. The first phase basically will be an examination of administration documents on student discipline. This will include such items as

Board resolutions, policy memoranda, district-wide regulations, handbooks, minutes of principals meetings, logs of disciplinary actions on record with the Superintendent and the Board, and similar papers on file with the Central Office. In addition, there will be interviews with central staff personnel who are responsible for the formulation and implementation of student discipline throughout the schools.

The second phase will be conducted in a number of schools where, from the results of the inquiries in the central office and other sources, there may be possibilities of discrimination in discipline. In the schools, the review will require interviews with principals, counselors, teachers and other staff personnel, and possibly students. It will require also the examination of written school policies and procedures on student discipline, such as handbooks, regulations, principals' memoranda, logs of disciplinary action, and other papers concerned with student discipline. Whenever it becomes necessary to examine the files of a student or employee, a written statement will be given the Superintendent setting forth the reasons for the review with such assurances of privacy or confidentiality as are provided for, given the nature of the investigation, under 45 CFR 80.6(a) and (c) and 80.7(a)(b) and (c), a copy of which I gave you. It is our intention to inform you in advance of the schools we wish to visit and the persons to speak with so that you can make the arrangements and know of our whereabouts.

The third phase will be conducted in the communities served by the schools. The review will solicit statements regarding student discipline practices from community leaders, parents, students and other interested persons in the County. This phase will include further contact with the complainants and persons having knowledge of the circumstances.

The conduct of the review will at all times be under my direction, and I have been named by Mr. Peter Holmes, the responsible Department Official in this matter, to be his designee. Working with me will be Mr. Theodore Nixon of our Regional Office in Philadelphia. Mr. Nixon and I have been coworkers in countless compliance reviews since 1969 and because of his abilities and knowledge of your school system I have asked him to join me in this project. As yet I have not chosen others for the review team, but it is likely that two persons from Washington and one other from Philadelphia will be named. It is unlikely that more than four members of the team will be in the County at one time, but you will be kept informed as to the composition of the team.

In regard to press relations, the review is covered by the provisions of the Public Information Act, copies of which I gave you. Sometime soon, this Office may be obliged to discuss the purposes of the review with the press. However, once the review is under way, we are not obliged to discuss our findings publicly. Any official reports from us to you about the review are public documents and if we are asked for them we will make them available, but not until you have received the reports and have had a chance to react to them.

In looking over my calendar, I think early in August (around August 8 or 9) may be a good time to start the review. Of course, I shall be more specific later on when it comes to working out details.

I trust this letter covers the points we discussed. If there are questions or suggestions, let me know at once.

Sincerely yours,

David Gerard

David Gerard
Program Development Coordinator
Elementary and Secondary Education Division
Office for Civil Rights

cc: Director, Office for Civil Rights, Region III

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

133 Green Street
Annapolis, Maryland 21401
Telephone 301 268-0045

July 18, 1974

Mr. David Gerard
Program Development Coordinator
Elementary and Secondary Education Division
Office for Civil Rights
Department of Health, Education and Welfare
Washington, D.C. 20201

Dear Mr. Gerard:

We are in receipt of your letter of July 9, 1974, and we thank you for your prompt attention to the matters of our earlier discussion concerning the compliance review of student disciplinary practices that your office proposes to undertake in our school system.

We believe we are now somewhat better able to understand the nature and scope of the process you intend and as a consequence, we feel we can respond with some suggestions that we hope will help to define responsibilities, identify and assign role functions and in general, to facilitate the cooperative effort you seek.

In that regard, the guidelines and agreements attached are submitted for your consideration and comment. You will note that we have suggested tentative starting and termination dates (August 19, 1974 and December 20, 1974). The starting date is suggested in consideration of the vacation schedules of a number of our key personnel. The termination date provides for approximately 90 working days in which to complete all review activities and is suggested in the hope of promoting the development of a reasonably firm schedule of assignments. We hasten to add, however, that we are not intractably wedded to these times and we stand willing to consider alternative schedules that might better suit your convenience.

Finally, it is our understanding that the document that we develop concerning the nature, working relationships and limitations of the compliance review process is to bear the approval and signatures of Mr. Holmes and Dr. Anderson and is to be presented to our Board of Education, and made available to the general public.

Should you have questions about any of the information enclosed, or suggestions about how we might better proceed, please don't hesitate to call.

Sincerely,

C. Berry Carter, II
Deputy Superintendent of Schools

CBC/mr/wp

THE

Suggested Guidelines and Agreements

Compliance Review, Student Disciplinary Practices in
The Public Schools of Anne Arundel County, Maryland

Elementary and Secondary Education Division, Office for Civil Rights,
Department of Health, Education and Welfare and
The Board of Education of Anne Arundel County

Preamble:

In pursuit of its avowed goal to provide for each of the young people in its charge a program of education compatible with their needs and abilities, the Board of Education of Anne Arundel County recognizes its responsibility to and proclaims its commitment to the concept of individual difference and personal worth.

To that end, the Board requires that all individuals within its employ, every student and parent within its clientele network, and each member of its various publics be, and are accorded, in any associations or relationships with the Board, either official or casual, all conscious considerations of fairness and equality in standing and treatment.

In that regard, the Board of Education deplores any implication of guilt by discrimination before the finding and substantiation of facts and hereby disclaims any inference that its [illegible] policies and/or practices are consciously designed or implemented to favor, or to depreciate any individual, organization or group.

In support of this position, the Board of Education of Anne Arundel County stands ready to assist the Elementary and Secondary Education Division of the Office for Civil Rights, Department of Health, Education and Welfare, in the conduct of its compliance review of student disciplinary practices in the public schools of Anne Arundel County under the following conditions and agreements:

I. Scope of Investigation:

A. The conduct of the compliance review of student disciplinary practices within the Public School System of Anne Arundel County by the Elementary and Secondary Education Division, Office for Civil Rights, HEW, will consist of three phases:

1. An examination of administrative documents concerning student discipline regulations and practices to include items such as:

- a. Board resolutions.
- b. Policy memoranda.
- c. District wide regulations.
- d. Handbooks.
- e. Minutes of principal's meetings.
- f. Logs of disciplinary actions.
- g. Similar documents and papers on file with the central office.

2. An examination within selected schools of written school policies and procedures concerning student discipline such as:

    - a. School policies and/or regulations.
    - b. Handbooks.
    - c. Principal's memoranda.
    - d. Logs of disciplinary actions.
    - e. Similar documents and papers concerning student discipline.

3. Interviews with personnel of the Board of Education at the Central Office level and within selected schools, students, community leaders, parents, and other selected community residents concerning their impressions or knowledge of the Board of Education's policies and practices regarding student discipline.

4. In order that the interview and observational experiences as a part of this investigation may be genuinely representative of the total school community and present thereby a more valid and balanced image of the community's attitudes and beliefs concerning student disciplinary practices within the Public Schools of Anne Arundel County, The Elementary and Secondary Education Division's investigative team agrees to accept suggestions offered by designated representatives of the Board of Education concerning selected individuals, students, teachers, school or community situations, community agencies, organizations, or groups to be interviewed or observed.

II. Time Frame and Calendar of Activities:

A. A calendar of activities, including estimated initiation and closure dates, contemplated investigative activities, desired investigative locations i.e., central office, designated schools, community agencies, etc. and prospective interviewees will be developed and agreed to by the appropriate officials of the cooperating agencies.

1. It is agreed that no investigative activities in support of the compliance review will commence prior to August 19, 1974, nor will any such activities continue beyond December 20, 1974, or 90 days after the actual initiation of said activities, should these activities commence after August 19, 1974.

2. Any deviation from, modification of, or extension to the dates, times, locations, and/or activities agreed to in this section must be approved by the appropriate officials of the participating agencies.

A. All activities in support of the compliance review of student disciplinary practices within the Public School System of Anne Arundel County will be conducted by a team of no more than four members designated by the Program Development Coordinator, Elementary and Secondary Education Division, Office for Civil Rights, HEW. A brief resume of the education, training and background of experiences will be submitted for each of the designated team members to the Office of the Deputy Superintendent of Schools for Anne Arundel County.

B. All activities in support of the compliance review of the members of the team of investigators constituted by the Elementary and Secondary Education Division, Office for Civil Rights, HEW, will be directly supervised by the Program Development Coodinator of the Elementary and Secondary Education Division, Office for Civil Rights, HEW.

C. The Board of Education reserves the right to constitute a team of investigators consisting of no more than four members designated by the Deputy Superintendent of Schools. A brief resume of the education, training and background of experiences will be submitted for each of the Board's team members to the Program Development Coordinator, Elementary and Secondary Education Division, Office of Civil Rights, HEW.

D. All activities of the members of the team of investigators constituted by the Board of Education will be directly supervised by the Deputy Superintendent of Schools.

E. Any changes in team memberships, additions to, deletions from, or substitutes for team members as originally designated and submitted, must have the approval of both agencies.

IV. Access to, Exchange and Distribution of Information:

A. Confidential records of students or employees of the Board of Education of Anne Arundel County are protected by the caveats and provisions of the State Law of Maryland, Maryland State Board of Education By-Laws and by the policies and regulations of the Board of Education of Anne Arundel County, and will not be otherwise available for inspection except under the following conditions:

1. Written authorization of the parents or legal guardians of students under 18 years of age.

2. Written authorization of the student in question if he is over 18 years of age.

3. Written authorization of the Board Employee in question.

4. Court order.

B. At designated intervals during the progress of the investigation, said intervals to fall not less than five nor more than twenty days apart, information developed by the participating team members including, but not limited to, interview notes, memoranda, conference minutes, ancedotal or chronological investigative write-ups, questionnaires, findings, etc., will be exchanged between the appropriate authorities of the participating agencies.

C. Information as to procedures and/or guidelines developed, techniques and strategies employed, investigative results and findings discovered, as a result of this compliance review of the student disciplinary practices within the

Public Schools of Anne Arundel County may be used or distributed by either of the participating agencies as it determines to be fitting, provided, however, that procedures with regard to releasing said information to the press, other news media, or to the public at large found under Article V of these agreements shall be adhered to strictly, and further provided that under no circumstances will any information be disclosed or distributed that will in any manner serve to identify any individual, student, parent, employee of the Board of Education of Anne Arundel County, or any resident, citizen or person within the Anne Arundel County community who is either directly or indirectly connected with this investigation unless the individual or individuals to be so identified shall give their written authorization for the release of such information.. Prior to the release of any such identifying data, proof of the concerned individual's authorization for release will be submitted to the Office of the Program Development Coordination, Elementary and Secondary Education Division and to the Office of the Deputy Superintendent of Schools.

V. Requests for information from the Press

A. Requests from the Press for information relating to the investigation will be met, in all cases except the most routine inquiries, with the standard response that a joint statement from both agencies will soon be issued on the subject. The agency contacted by the Press will then contact the second agency and arrange for a joint response to any and all inquiries requiring substantive response.

B. In no case will the Press be given information regarding any facet of the investigation or its findings without first assuring that both agencies already have been made aware of said information sufficiently in advance of public release to analyze the information and formulate a response, should a response be deemed desirable.

C. Requests for personal opinions or observations of how the investigation is going or what may develop from it will be denied by all spokesmen and participants from both agencies. The only comments made will be official comments from the two agencies speaking institutionally.

D. Specifics about the investigation, including names of complaintants, alleged offenders, institutions, or other identifying information such as titles, specific school locations, etc. will not be released to either the press, the public, or any source whatsoever without first fully adhering to the provisions set forth in Article IV, Section C of these agreements.

VI. Guarantee of Civil Rights, General Rules of Proceedings

A. In order to secure the civil rights of all parties to this compliance review, any student, teacher, parent, employee of the Board, resident or citizen of Anne Arundel County against whom allegations or charges of discrimination are made shall have the right to a full and complete hearing, including the right to counsel, the right to cross-examine witnesses and the right to produce witnesses in his own behalf, before a panel of designated members from both agencies in advance of any publication or release of said allegations, either to the press, in the form of an interim or final report, or in any other manner. Information brought to light as a result of such a hearing will be included as part of any information to be released as described above.

B. The use of threats, intimidation or coercion to obtain data or information, or to influence the course or outcome of this investigation will be considered as a violation of these agreements and will result in a suspension of all investigative activities until the offending party or parties are identified and prohibited from all further participation in this investigation.

C. Reprisal on the part of Board of Education employees, students or teachers against any other student, parent, teacher or employee of the Board of Education participating in this compliance review, will not be tolerated. Action appropriate to the nature of the offense will be initiated against the offending party or parties by the Board of Education.

D. Any violation of the agreements contained in these guidelines by any member of the investigative team of the Elementary and Secondary Division, Office for Civil Rights, HEW, will constitute cause for termination of all activities in support of this compliance review.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

AUG 9 1974

Dr. Edward Anderson
Superintendent of Schools
Anne Arundel County Public Schools
183 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

During our meeting on June 25, 1974, in my office, I agreed that Mr. David Gerard from my staff would meet with your Deputy, Mr. C. Berry Carter II, to discuss and formalize the procedures for a compliance review of disciplinary practices in Anne Arundel County Public Schools. They met on July 1 in Annapolis for several hours, and following the meeting, Mr. Gerard sent Mr. Carter a letter of understanding dated July 9, 1974.

Before me I have a copy of Mr. Gerard's letter and a copy of a response from Mr. Carter, dated July 18 (received by this office on July 31 1974), which contains "Suggested Guidelines and Agreements" concerning the review. As I read it, Mr. Gerard's letter of understanding describes quite clearly what I have intended to be the structure and procedures for this compliance review and the responsibilities of my staff throughout its conduct. There is nothing in Mr. Carter's response which indicates that the procedures as described are unacceptable to him.

I am therefore puzzled by the submission of "Suggested Guidelines and Agreements." It is my understanding that the procedures of the review were to be discussed by our representatives in the spirit of cooperation. It was not and is not my intention to agree to a contractual arrangement that would deviate in any way from my statutory duty to enforce the law.

The Office for Civil Rights is obligated by law to follow the procedures specified in Title VI of the Civil Rights Act of 1964

(42 U.S.C. 2000d) and accompanying Regulations (45 CFR Sections 80 and 81.) The Anne Arundel County Public Schools, as a condition of receiving Federal financial assistance, filed written assurance on April 28, 1966, that it will comply with these Regulations. This Office cannot and will not negotiate with respect to deviations from these statutory requirements. I direct your specific attention to (45 U.S.C. Sections 80.6 - 80.10), which explain in detail the procedures the Department must follow in its reviews. Except for most of the points raised in Section I, which is a paraphrase of parts of Mr. Gerard's letter, we therefore cannot agree to the "Suggested Guidelines and Agreements," and because of our statutory obligations there is no authority to compromise on any of the other points.

Specifically, it is the province of the Department, and the Department alone, under the Regulations, to ascertain compliance with Title VI of the Civil Rights Act of 1964. The "responsible Department official or his designee," (in this case Mr. Gerard) must determine the information that is "pertinent to ascertain compliance" Section 80.6(c), not the school district subject to review. As a condition of receiving Federal financial assistance, the Anne Arundel County Public Schools must submit to the "responsible Department official or his designee timely complete and accurate compliance reports at such times and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part." (Emphasis added), (Section 80.6(b)).

We share the school district's concern about unnecessary disclosure of information. The Regulations are clear on this point:

> "...Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this Part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law." (Section 80.6(c)).

We therefore cannot agree to that part of the "Suggested Guidelines and Agreements" with respect to access to information by the Department. I would like to emphasize a passage from Mr. Gerard's letter of July 9, 1974, which assures that you will be given ample notice of Department's request for information of a sensitive nature:

> "Whenever it becomes necessary to examine the files of a student or employee, a written statement will be given to the Superintendent setting forth the reasons for the review with such assurances of privacy or confidentiality as are provided for, given the nature of the investigation, under 45 CFR 80.6(a) and 80.7 (a)(b) and (c), a copy of which I gave you. It is our intention to inform you in advance of the schools we wish to visit and the persons to speak with so that you can make the arrangements and know of our whereabouts."

Similarly, we cannot agree to your suggestion that we share our investigative notes with you during the course of the review. Investigative files, including memoranda and interview notes, are protected from release to either the school district under investigation or to the press by the Freedom of Information Act.

[illegible] - with [illegible] -

The Regulations provide for an opportunity for hearing by recipients of Federal financial assistance if voluntary compliance with Title VI or its Regulations cannot be achieved after the recipient is notified of the alleged violation (Section 80.8). Section 80.9 of the Title VI regulations provides for hearings incorporating the right to counsel, the right to cross-examination and the right to produce witnesses. Such hearings are held before Administrative Law Judges, in accordance with the Administrative Procedure Act.

We are pleased that the Anne Arundel County School System is prepared to assist our investigators in conducting the review. We will be glad to have the assistance of members of your staff as we review written materials of the School District, although during the course of the review, it will be necessary for Mr. Gerard staff to interview individuals in confidence.

I trust you understand that the Office for Civil Rights alone can determine the composition of its investigative staff, and therefore we cannot agree to your suggestion with respect to bilateral approval of the composition of an investigative staff. We cannot agree to hearings other than those provided for in the Regulations, nor can we agree to terminate our compliance review under conditions your district imposes.

We shall be pleased, nontheless, to present resumes of the professional background of our review team members. Furthermore, the staff shall attempt wherever possible to coordinate with Mr. Carter before any statements are made to the press, in order to avoid conflicting or erroneous reporting.

We cannot permit any further delay in the resumption of the review. Therefore, the review will proceed no later than August 21, 1974, and will be conducted according to the procedural requirements of Title VI Regulations, 45 C.F.R Section 80, as explained in this letter and Mr. Gerard's letter of July 9, 1974.

I am instructing Mr. Gerard to proceed with the review on August 21, 1974. He will be in contact with Mr. Carter to inform him of time of arrival and to name the other members of the review team. Upon his arrival at the office of the Board of Education, pursuant to 45 C.F.R 6, 80.6(b), please have available for Mr. Gerard and his staff all Board resolutions, policy memoranda, district-wide regulations, handbooks, minutes of Board meetings, logs of disciplinary actions on record with the Superintendent and the Board, and similar papers on file with the Central Office pertaining to the student disciplinary policies and practices of the Anne Arundel County Public Schools. Mr. Gerard will also need to discuss the District's disciplinary policies with members of the staff at the time.

I earnestly hope that the compliance review can be carried out without delay and in the spirit of cooperation I felt to be present at our last meeting.

Sincerely yours,

Peter E. Holmes
Director
Office for Civil Rights

cc: Chief State School Officer
Director, Office for Civil Rights, Region III

August 14, 1974

Mr. Peter Holmes
Director, Office for Civil Rights
Department of Health, Education and Welfare
Washington, D. C. 20201

Dear Mr. Holmes:

I am in receipt of your letter dated August 9, 1974. The position you have taken therein does not reflect the understandings resulting from our personal meeting on June 20, 1974.

Our meeting on that date was to discuss procedures to be used in your proposed investigation of what you said were three specific charges of discrimination lodged against this school system. During that meeting there arose a whole new discussion regarding an inquiry which your office had proposed to a Congressional committee into what you called "second generation discrimination" by school systems across the nation. You indicated to us that Anne Arundel County had been chosen as a target system for a pilot project to develop model procedures to be used nationwide.

It was agreed that we would cooperate with your agency in this pilot project. Our cooperation was contingent upon the condition that our two agencies come to an understanding as to the exact procedures to be used in this project. We both agreed, in the presence of counsel, that a document specifying these procedures would be developed and signed by you and I before the project was initiated. This document, it was also agreed, would be made public so that the citizens of Anne Arundel County would have an understanding of the nature of the project and the reasons for it.

The Anne Arundel County school system has been, and continues to be, committed to the removal of discrimination wherever it may exist. It was in that context we agreed—subject to the procedural guidelines which would carry both our signatures—to cooperate with your agency in the pilot project it had proposed to Congress.

Following our meeting in June, Mr Conrad from your office met for approximately an hour and a half on July 1 with Mr. Carter, Deputy Superintendent of Schools, to discuss the procedural guidelines you and I agreed to then. There followed a letter from Mr. Conrad to Mr. Carter outlining his understanding of that meeting and a subsequent letter from Mr. Carter to Mr. Conrad in response. Enclosed with the response was the first draft of proposed procedural guidelines. This draft was submitted to Mr. Conrad for his review and comment.

Mr. Peter E. Holmes
Page Two

We believe the procedures which are developed to carry forth this inquiry into possible "second generation discrimination"—both in this school system and in others across the nation—must be carefully and prudently developed. Since what is undertaken here is proposed to serve as a model for subsequent inquiries, the actions of your agency and ours could affect the lives of hundreds of thousands of school children in every state of the Union. We are both obligated to proceed in a reasonable and judicious manner.

We feel certain that most or all of the procedural questions with regard to this project can be resolved to our mutual satisfaction with cooperative examination of viable alternatives. We would hope Mr. Gerard would join Mr. Carter in further discussion toward that end.

Mr. Carter will be in touch with Mr. Gerard on or before Monday, August 19 to carry forward these discussions. It is our hope we may quickly resolve our points of difference regarding the understanding of procedure so that you and I may sign this document and make it public, pursuant to our understanding of June 20.

If it is your opinion the understanding reached at the June 20 meeting is not as stated herein, please let me know. A review of that meeting with Mr. Thomas J. [illegible], our counsel present, and your counsel, Mr. Spitz, may then prove useful.

Sincerely,

Edward J. Anderson
Superintendent of Schools

EJA:bwp

Attachment A-33

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

AUG 19 1974

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

I have read your letter of August 14, 1974, concerning the forthcoming compliance review of disciplinary practices in the Anne Arundel County Public Schools.

It is my strong conclusion we are communicating at cross purposes on this matter. Let me make some points quite clear so that there will be no misreading of this Office's intentions.

First, the main purpose of the review is to investigate signed complaints of racial discrimination in disciplinary practices made against the Anne Arundel County Schools by parents whose children attend these schools. The authority to investigate complaints is granted this Office by 45 CFR Sections 80.6 through 80.9. In April 1966, you agreed to observe this Regulation by filing an Assurance of Compliance Form 441-B. It was our hope that the conduct of this investigation would prove informative to my staff to the extent that as the first review of its kind, it would provide experience that could be helpful to other staff members of this Office who would be conducting similar investigations, and our wish for your cooperation in this latter effort was expressed through our conversation on June 20, 1974, and in Mr. Gerard's letter of July 9, 1974.

Second, this Office cannot bargain over the methods and procedures to be followed by its staff in conducting compliance of school systems receiving Federal financial assistance. The manner in which the review is to be conducted was described in Mr. Gerard's letter of July 9, 1974. I assured you in our meeting of June 20 that a representative of my staff would discuss with your deputy the procedures to be followed and these would be committed to writing. It was my desire to ensure through an articulation of those procedures an orderly and thorough investigation having the full support and cooperation of you and your staff.

Third, the review can no longer be delayed and must commence August 21, 1974. Mr. Gerard will inform Mr. Carter as to his time of arrival and of the members of the review team accompanying him.

Your support in this matter will be appreciated.

With kind regards,

Sincerely yours,

Peter E. Holmes

Peter E. Holmes
Director
Office for Civil Rights

cc: Chief State School Officer
Director, Office for Civil Rights, Region III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

AUG 20 1974

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

During our telephone conversation yesterday you raised a question about the term "legitimate complaints" used in David Gerard's letter to Eerry Carter, dated July 9, 1974.

To this Office, a legitimate complaint is one which appears on first analysis to contain allegations of discrimination by one or more responsible, identifiable persons having a pertinent interest in the administration of a particular school system. It is one that appears to merit further inquiry. Investigation of such complaints is required by 45 CFR, Section 80.7(b).

Upon investigation, my staff must make a determination whether the complaint is valid; that is, whether the alleged discrimination actually exists. If investigation shows this to be the case, this Office requests the school system to take remedial action to remove the discriminatory practice. If investigation shows the complaint to be invalid; that is, without substance in fact, both the complainant and the school system are so informed and the case is closed.

When it responds to a complaint which it thinks is worthy of inquiry, my staff is making no prejudgment of the merits of the case. Only careful investigation and a weighing of the facts can produce a finding of noncompliance, and when such a finding is made, the school system is given every opportunity to present facts and argument in its own behalf.

Page 2 - Dr. Anderson

Let me reassure you that the complaints before us against the Anne Arundel Public Schools will be investigated without prejudgment and with the highest degree of objectivity by my staff.

Sincerely yours,

Peter E. Holmes

Peter E. Holmes
Director
Office for Civil Rights

cc: Chief State School Officer
Director, Office for Civil Rights, Region III

RESUME

Name: John R. Jefferson

Title: Equal Opportunity Specialist, Department of Health Education and Welfare

Education - Civilian: B. S., Virginia State College, Petersburg, Virginia

Additional study--------San Francisco State College, San Francisco, California

University of Hawaii, Honolulu, Hawaii

Education - Military: Quartermaster School, Fort Lee, Virginia

Transportation School, Fort Eustis, Virginia

Anti-Aircraft Artillery School, Fort Bliss, Texas

Intelligence Research Officers Course, Fort Holabird, Maryland

Experience:

Mr. Jefferson is a retired military officer, with 23 years active service with the United States Army. He is a veteran of World War II, the Korean Conflict, and the Vietnam Police Action. Some of his major assignments are as follows:

Chief, Personnel Security Investigations Branch, 115th Military Intellegence Group, San Francisco, California

Chief, Plans and Training Branch, 115th Military Intelligence Group, San Francisco, California.

Chief, Personnel and Document Security, 710th MI Detachment Honolulu, Hawaii

Mr. Jefferson has been with the Office for Civil Rights since his retirement in 1971. As an Equal Opportunity Specialist he conducts research and investigations to determine the compliance or non-compliance of schools and school systems with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972.

RESUME

Stephen Spitz, Attorney, Office of the General Counsel, Civil
Rights Division, Department of Health, Education
and Welfare

Educational Background;

University of Michigan BA 1968
University of Chicago Law School J.D. 1972

Professional Background;

Caseworker, Cook County Department of Public Aid, Chicago, Illinois, 1968

Teacher, Chicago, Public Schools, 1968-69

Mandel Legal Aid Clinic, Chicago, Illinois 1970-72

Instructor, University of Michigan Law School, 1972-73

Office of the General Counsel, Department of Health, Education and Welfare 1973-74

RESUME

David Gerard, Program Development Coordinator, Policy and Program Development Branch, Elementary and Secondary Education Division, Office for Civil Rights, Department of Health, Education and Welfare

Education Background:

Lafayette College, BA 1946
Rutgers University, Graduate Study 1943-49
University of Grenoble, Grenoble, France 1949-51 MA

Professional Background:

Pennsylvania Department of Education - Director of Information and Publications, 1956-63

President's Committee on Equal Opportunity in Housing - Assistant to the Chairman, 1963-66

Office for Civil Rights, Department of Health, Education and Welfare, 1966-74

Attachment H-34

House Office Building
Washington, D.C. 20515
202-225-[illegible]

Committee:
Armed Services

Congreſs of the United States
House of Representatives
Washington, D.C. 20515

August 28, 1974

Dr. Edward J. Anderson
Superintendent, Anne Arundel County Schools

Dear Dr. Anderson:

Because the Office of Civil Rights of the United States Department of Health, Education and Welfare has undertaken an investigation of Anne Arundel County schools, including disciplinary practices, I consider it my responsibility to monitor that investigation to ensure its fairness.

I believe it is very important for elected officials to maintain close surveillance of the activities of bureaucracies, which are not directly responsible to the people. I was elected to Congress to represent the people of the Fourth Congressional District, and the activities of any federal agency in this District should be subject to review by my office.

Therefore, I am requesting that all files, statistical data and other papers being examined by the Office of Civil Rights be made available to me or to a designated member of my staff for a thorough analysis.

When the agency completes its investigation and publishes its conclusions, I believe it will be very valuable to you and the people of Anne Arundel County to compare its findings with the conclusions reached by our office.

I have no intention of hindering the investigation, although I have an abiding resentment of any federal intervention in local affairs.

Dr. Anderson, I have the utmost confidence in the integrity and fairness of your administration of Anne Arundel County schools. You have been doing an excellent job, and I know you have the strength to overcome difficulties created by external forces.

In particular, I would urge you not to relax your insistence upon good order in the schools. I have confidence you will continue to apply whatever discipline is necessary for the maintenance of an orderly school environment conducive to quality education.

I believe that responsible parents, black as well as white, want quality education for their children, and will support the measures necessary to achieve that goal.

With best wishes, I am

Sincerely yours,

Marjorie

Marjorie S. Holt
Member of Congress

MSH/gp

CAMERA COPY [illegible]
SUPPLY 2 SETS DYLUX
[illegible]

Attachment A-35

[illegible]

[illegible]

[illegible] —

1.- Identify drop-outs by race — (Shipley 10 days ??).

2.- Have someone from our ofc. monitor intvws. w/ our [illegible] ?
Gerard: "Not our usual procedure — will check w/ Holmes".

3.- Compulsory Attend. Ages —

4.- Complainants —
is to get:
① Parents Assoc. — Martha Woods
ed wants
-x of Mrs. W's — Sam Kennedy
r. of Expulsion Bk. — Anne Blumenberg } (copy of complaint). May '73 —
Includes studs. names ???
Letters — general } "patterns of racial discrim." —
historical } "sabotaging of publ. mtgs."
: wants list
[illegible]
[illegible] supts.
(last yr.).
"Can't reach Adm. w/ probs. —."
"What is a [illegible] ?" (prob. [illegible]).

[illegible] —

"No record of recent disciplinary actions taken" [illegible] - [illegible] - suspended [illegible]

According to mother - "minor offenses - making a record of reputation, leading to other probs. - sent to L.C. - only one of large number of blk. youngsters - so identified & shunted to L.C. now almost 50% blk. when Co. avg. 13%."

"L.C. - What's your reaction to the extreme ratio of blks. at L.C. - 49% blk."

Mr. Fielding Gentry - (Tchr. D.C.) -

Christopher - Anne. Jr. - late May - June

Suspended - Mr. Gentry - never able to determine why Christopher was suspended.

phoned in to Mr. Nixon - Phila. ???

racial??

Gentrys are concerned about the racial atts. of tchrs. - esp. - (Showers) -

(Mrs. [illegible] music tchr. - said, "she wouldn't tch. Christopher."

Schs. to look at:

L.C. Anne. Elem. Hermans

Annex Jr. [illegible] Jr.

[illegible] [illegible]

[illegible]

Nixon - Austin's complaint Reg. Ofc. (rec'd. date - ? -)
Mrs. Huddleston - Complaining Tchr.
Annap. Sr. - transferred to "Arundel V-T.
was not made Dept. Chr. - "demoted" -
only blk. tchr. there -
Why aren't there more blk. tchrs. at
N. Arundel V-T. - ?

Ques. is transfer of Mrs. Huddleston?

This is the Review Team -
Gerard
Jeff.
Nixon
Williams

Sec. 207 - OCR's - H.R. 69

Resume's - Nixon, Williams - ? - Yes =
Transcripts of Interviews - ?

E ARUNDEL COUNTY PUBLIC SCHOOLS

AK REC'D

memo

RD ANDERSON

MEETING 9/11/74 w/HEW

FROM: BOB WHITE
DATE: SEPTEMBER 12, 1974
COPY TO: C.B. CARTER

Reactions and impressions, following yesterday's meeting with HEW Investigative Team:

Attending yesterday's meeting were C. Berry Carter, H. Lewis Alsobrook and myself representing the school system, and Mr. Gerard, Mr. Jefferson, a Mr. Nixon (attending for the first time) and a woman who was not introduced to me.

Mr. Gerard began the meeting by reading a letter from the Annapolis Parents' Association which was reportedly one of the complaints HEW has received re: our student discipline practices. The letter dealt in vague generalities and sweeping innuendo. It contained a great deal of rhetoric and very little information of a clear and concise nature.

From the outset of the meeting Mr. Nixon carried the thrust of what might be termed the "meaningful" or "direct" questioning. Mr. Nixon's tone from the beginning was pointed and argumentative. He seemed to be quibbling with nearly every explanation or statement made by Mr. Carter. He sought further elaboration of some of Mr. Carter's comments, but in seeking this information he used a style of questioning not unlike that of an attorney in cross examination. His questions were, in my opinion, shallow and transparent. It appeared obvious he had his mind made up and merely hoped to prove his points through his leading questions.

Mr. Nixon's twisting or interpreting to his own liking of Mr. Carter's remarks proved particularly disconcerting. He has a habit of taking remarks out of context and applying his own logic to what has been said in order to use these remarks in proof of his own position, which appears to be that the school system has been singularly uncooperative with minority parents and minority groups in solving problems or resolving complaints. Mr. Gerard and Mr. Jefferson seemed to ask more objective questions throughout. Their tone and demeanor were not accusatory, as was Mr. Nixon's.

Attachment H-36.

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

168 Green Street
Annapolis, Maryland 21401
Telephone 301 268-3345

September 16, 1974

r. Peter E. Holmes
irector, Office for Civil Rights
ept. of Health, Education and Welfare
ffice of the Secretary
ashington, D. C. 20201

ear Mr. Holmes:

s you know, we have cooperated with the team of investigators sent by you to nne Arundel County to review this school system's practices with regard to tudent discipline.

areful review of the three specific charges you indicated have been lodged against s reveals these complaints to be vague, superficial, and having no basis in fact. e feel certain your inquiry has shown these charges to be entirely without foundation.

ith regard to the larger inquiry into student discipline practices countywide which our office has undertaken as a pilot project in an effort to determine the extent of o called second generation discrimination in the nation's public schools, we have upplied your team with copies of State Law, State Board of Education By-Law and ounty Board of Education policy as they relate to student discipline. You have also eceived copies of Administrative Regulations concerning this subject, various emoranda, copies of Student Handbooks, the Principal's Handbook, suspension and xpulsion data for a 3-year period, referral data for the same period, dropout data nd Court referral data, in addition to monthly reports of the Special Assistants to e Superintendent and narrative material regarding the Learning Center. Supplementing ese various documents have been lengthy interviews with staff members. We trust all this information has been useful to you.

the absence of any formal charges, we consider the matters referred to in this letter closed. We are sure you will agree the facts do not justify further interruption the day-to-day operations of this school system, nor the further expenditure of luable staff time by your agency and ours.

Sincerely,

Edward J. Anderson

Edward J. Anderson
Superintendent of Schools

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

SEP 27 1974

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

I have received your letter of September 16, 1974, which states that the administration of the Anne Arundel County Public Schools considers as "closed" the compliance review being conducted by the Office for Civil Rights of student disciplinary practices in your school district.

As you know, after a lengthy period of discussions and exchanges of correspondence with you, this Office began on August 21, 1974, a review of the Anne Arundel Public School district for the purpose of ascertaining compliance by your district with Title VI of the Civil Rights Act of 1964.

As a condition of the receipt of Federal financial assistance, the Anne Arundel County Public School system has provided this Office with a written assurance that it will comply with Title VI of the Civil Rights Act of 1964 and Regulations issued pursuant thereto (45 CFR Section 80). Section 80.7 delineates your obligation to permit this Department to conduct investigations to determine your Title VI compliance status. This obligation is entered into by all recipients of Federal financial assistance.

> "Section 80.7 Conduct of investigations
>
> (a) Periodic compliance reviews. The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part...
>
> (c) Investigations. The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part.

> The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part."

We have received three separate complaints alleging racial discrimination in the operation of the student disciplinary practices of your district. These complaints must be investigated. In addition, this Office has determined that a compliance review of your district is also warranted in part because of the disproportionately high incidence of disciplinary sanctions administered against minority students in several schools in your district. Further, such reviews are permissable in Districts as a purely routine matter, much in the nature of a tax audit, or similar routine investigation. Consequently, as the "responsible Department official," I have designated Mr. David Gerard of our Office to investigate the compliance status of your district pursuant to Section 80.7 (a) and (c). This Office has not completed this investigation. Consequently, this matter cannot be regarded as closed.

In his letter of July 9, 1974, Mr. Gerard stated that the review would consist of three phases: the first to consist of analysis of central administration policies and procedures, the second to inquire about discipline practices and procedures in schools in the district, and the third to contact community representatives. Mr. Gerard has informed me that the first phase is nearly complete but that two documents requested by Mr. Gerard on August 21 and again on September 11 have yet to be furnished. These are (1) a breakdown by race of student dropouts in 1973-74 and (2) a copy of the Deputy Superintendent's log of discipline actions. Pursuant to 45 CFR Section 80.6, I am again requesting this information from your district.

In ascertaining whether or not there is racial discrimination in the operation of student disciplinary practices in the Anne Arundel County Public Schools, it is necessary not only to examine documents issued by the Superintendent's office, but also to examine the operation of the policies in the schools where students are located. Mr. Gerard and his team met with members of your Central office staff in the Administrative Offices on three occasions, August 21, August 23, and September 11, 1974, but have not yet investigated the operation of student disciplinary practices in any of the district's schools.

Mr. Gerard indicated in his letter to you of July 9, 1974, that "the second phase of the review will be conducted in a number of schools where, from the results of the inquiries in the central office and other sources, there may be possibilities of discrimination in discipline." As Mr. Gerard indicated on July 9:

> "...in the schools, the review will require interviews with principals, counselors, teachers and other staff personnel, and possibly students. It will require also the examination of written school policies and procedures on student discipline, such as handbooks, regulations, principals' memoranda, logs of disciplinary action, and other papers concerned with student discipline." — pupil recs. —

taped sv w/. rep. of those present.

The first school selected for phase two of the review is the Learning Center, many of whose students have been assigned there as a consequence of disciplinary actions against them in their home schools. Consequently, on September 11, Mr. Gerard arranged with the Deputy Superintendent, Mr. Berry Carter, to meet with the principal of the Learning Center on September 17, to begin phase two of the review.

By telephone call of September 16, Mr. Carter stated to Mr. Gerard that the proposed visit to the Learning Center was cancelled. Your letter of September 16 followed.

As I have indicated to you on previous occasions, 45 CFR Section 80.6(b) and (c) requires that recipients of Federal financial assistance, including your district, "shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part."

I trust you will reconsider your position and voluntarily comply with this Office in granting access to Mr. Gerard and other members of this Office during normal business hours to such books, records, accounts, school facilities and other sources of information, including school personnel, as may be pertinent to ascertain your district's compliance.

Specifically, this Office is presently requesting the following:

1. a breakdown by race of student dropouts in 1973-74
2. a copy of the Deputy Superintendent's log of disciplinary action for 1973-74
3. access to schools selected by Mr. Gerard for the review, starting with the Learning Center, including

appointments with principals, counselors, teachers, and other staff members of schools selected by Mr. Gerard and access to such school records as may be pertinent to ascertain compliance by your district with Title VI of the Civil Rights Act of 1964.

4. any and all written statements, issued by principals of certain schools to be selected by this Office, starting with the Learning Center, to teachers, counselors, staff, and/or students regarding school policies, practices, and procedures concerning the suspension, expulsion, or referral of students to other schools or to courts for disciplinary reasons, including, but not limited to, handbooks, notices, memoranda, regulations, logs, and other papers.

5. for each selected school, starting with the Learning Center, a racial breakdown of students for the current school year; and for the fall school year 1973-74 the number of students by race referred to the principals office for disciplinary reasons, suspended, expelled, referred to the Superintendent's office, referred to the Board of Education, referred to the Learning Center, as well as the procedures employed for such action and the reasons for taking or not taking such action.

Given your letter of September 16, 1974, unless you provide this Office with written assurance within 10 days of the receipt of this letter, that you will provide access to your schools, records, documents, school personnel, and other sources of information, including the materials listed above, as may be pertinent to ascertaining compliance by your district with Title VI of the Civil Rights Act of 1964, I will be compelled to conclude that your district has failed to comply voluntarily with 45 CFR Section 80.6 in denying this Office access to your district and I will be compelled to refer the matter to the Department's Office of the General Counsel for appropriate legal action.

Sincerely,

Peter E. Holmes

Peter E. Holmes
Director
Office for Civil Rights

cc: Chief State School Officer
Director, Office for Civil Rights, Region III

NE ARUNDEL COUNTY PUBLIC SCHOOLS

123 Green Street
Annapolis, Maryland 21401
Telephone 301 268-3345

October 7, 1974

The Honorable Marvin Mandel
Governor of Maryland
Annapolis, Maryland 21401

Dear Governor Mandel:

You may have become aware, through articles in the press, of a current dispute between the Anne Arundel County School System and the United States Department of Health, Education and Welfare concerning HEW's demand that teams of investigators be permitted access to confidential student records. The dispute, in my opinion and in the opinion of the County Board of Education is so serious that I thought it necessary to bring it formally to your attention and to request your assistance.

In July, 1973, three persons from HEW appeared in my office after having met with one or more parent or community groups, and indicated that they were investigating charges against the county school system concerning "racially discriminatory disciplinary practices." I and two members of my staff met with this team and attempted to ascertain the nature of these charges. The team refused to state what, specifically, they were investigating, but demanded all disciplinary records in several of our schools. They finally gave us a document from "The Parents Association" listing a number of complaints of a very general nature at the Annapolis Elementary School. None of the complaints alleged racial discrimination, and none were relevant to Civil Rights compliance.

The records demanded by HEW were pupil personnel records, including psychological reports, all of which, under State Board of Education by-law, are confidential and may not be released without parental consent. The HEW people insisted that they have access to these records without obtaining such consent.

Governor Mandel
October 7, 1974
Page 2

Subsequently, HEW has indicated that two individual complaints involving discrimination in the disciplining of school children had been received.

We have met several times and had volumes of correspondence with HEW during the past fourteen months concerning any specific complaints as well as any general complaints they may have. We have given HEW every piece of information they have requested, including reports, statistical data, regulations, etc., with the exception of a handwritten diary kept by one of our staff and confidential pupil personnel records.

To date, HEW has not completed its investigation of the one general and two specific complaints, and has given us no indication of any additional complaints. It has, however, demanded full and unrestrained access to all of the records of our Learning Center, which would include the pupil personnel records made confidential by State law. Bound as I am by the State Board by-law, I have refused to permit access to these confidential records.

We have made a full investigation of the complaints we know of ourselves and are convinced that they are without substance. We would, however, be perfectly delighted to have an independent body conduct an investigation into any of these matters. We had hoped that HEW would have conducted this investigation, but, after fourteen months, I am forced to conclude that HEW does not intend to make a serious investigation but is merely using the existence of the three complaints as a device to gain access to thousands of individual children's records and as a means of establishing certain precedents, regarding investigatory techniques which may then be utilized in school systems across this nation.

In addition to the fact that, having made and publicized these various charges, HEW has failed during this fourteen month period to substantiate any of them, leaving our school system under a sustained cloud of suspicion, there is involved here the critical legal and policy question of turning over unlimited access to these confidential records for purposes which have never been made clear to us.

On behalf of the County Board of Education, I am requesting your assistance in this matter.

Sincerely,

Edward J. Anderson
Superintendent of Schools

cc: Dr. Sensenbaugh, State Superintendent of Schools
Members, Board of Education of Anne Arundel County

[illegible]
P.O. BOX [illegible]
BALTIMORE, MARYLAND [illegible]

October 21, 1974

The Honorable Marvin Mandel
Governor of Maryland
Annapolis, Maryland 21404

Dear Governor Mandel:

This is to acknowledge receipt of your letter of October 9, 1974, in which you propose a hearing by the State Board of Education to consider the charges of discrimination in the disciplining of school children made by the U. S. Department of Health, Education, and Welfare against the Anne Arundel County school system.

Your letter has been referred to Mr. Framptom, President of the State Board of Education, and I am assured by him that your request will be taken under consideration by the Board at its next meeting on October 30, 1974. You will be hearing from us soon after the Board considers the problem.

Kindest personal regards,

Sincerely yours,

JAMES A. SENSENBAUGH
State Superintendent of Schools

JAS:mb
cc:Members, State Board of Education
Dr. Edward J. Anderson ✓
Mr. Peter Holmes

Attachment # 21

NE ARUNDEL COUNTY PUBLIC SCHOOLS
188 Green Street
Annapolis, Maryland 21401
Telephone 301 268-3345

October 9, 1974

r. Peter E. Holmes
rector, Office for Civil Rights
epartment of Health, Education & Welfare
ashington, D. C. 20201

ear Mr. Holmes:

Your letter received September 30, 1974 indicates the Office for Civil Rights as still not resolved the three specific complaints lodged against this school stem to which you repeatedly refer. At least one of these complaints has been nder investigation by your office for over 14 months. The cloud of suspicion hich has hung over this school system as a result of your inability to reach a esolution of these charges within a reasonable period and in a proper manner, mbined with your public statements and communications on this subject in the tervening period, has created an intolerable situation.

This letter is to acknowledge that the Anne Arundel County Public Schools have mplied with all the demands set forth in your letter received September 30, 1974, h the following exceptions:

- Item 1, a breakdown by race of student dropouts in 1973-74, which information was not available at the time it was demanded. This information, which constitutes a rather large package, is being forwarded under separate cover.
- Item 2 through 5, which are rejected as compliance with these demands would result in a violation of the Maryland statute on Confidentiality of Student Records.

Because I believe the method in which your office has handled this entire ter carries implications for every school system in this state, I have municated my concerns to the Governor of Maryland.

Sincerely,

Edward J. Anderson
Superintendent of Schools

:nm

Marvin Mandel, Governor
State of Maryland
Members, Board of Education
of Anne Arundel County

UCATION: C. George Asati, president, F. Carroll Smith, vice president, Dr. Delores C. Hunt, Mrs. Maureen Lamb, Col. Raymond C. Smith, Charles G. Trueler, Mrs. S. Edwin Zimmerman, J. Jeffrey Robinson (student member)

WITHDRAWALS FROM ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

1973-74

By code

By race/national origin

By sex

By grade

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SCHOOL  ------B------  ------I------  ------S-----  ------W------  ------A------  ------X-------       ------TOTALS----
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W52	11	004	002	006	000	000	000	000	000	000	027	014	041	000	000	000	000	000	000	0031	0016	0047
W52	12	002	002	004	000	000	000	000	000	000	022	004	026	000	000	000	000	000	000	0024	0006	0030
W52	30	002	000	002	000	000	000	000	000	000	001	000	001	000	000	000	000	000	000	0003	0000	0003
W52	TOT	018	005	023	000	000	000	000	000	000	119	034	153	000	000	000	000	000	000	137	039	176
W53	10	000	000	000	000	000	000	000	000	000	001	000	001	000	000	000	000	000	000	0001	0000	0001
W53	11	001	000	001	000	000	000	000	000	000	000	000	000	000	000	000	000	000	000	0001	0000	0001
W53	12	000	000	000	000	000	000	000	000	000	001	000	001	000	000	000	000	000	000	0001	0000	0001
W53	TOT	001	000	001	000	000	000	000	000	000	002	000	002	000	000	000	000	000	000	003	000	003

Withdrawals	Black	White	Other
Total	300	1707	3
%	14.9%	84.9%	0.2%

a statistical analysis of

SUSPENSION INCIDENTS, WITHDRAWALS and DROPOUTS vs. PUPIL POPULATION
in the Anne Arundel County Public Schools

for the 1973-74 school year

CATEGORY	TOTAL	BLACK (#/%)	WHITE (#/%)*
PUPIL POPULATION	76,221	9,716/12.7%	66,505/87.3%
SUSPENSION INCIDENTS	3,785	1,278/33.8%	2,507/66.2%
ALL WITHDRAWALS, K-12	2,010	300/14.9%	1,710/85.1%
DROPOUTS	1,379	199/15.1%	1,180/84.9%
EXPULSIONS	19	7/36.8%	12/63.2%
WITHDRAWAL AFTER ADMINISTRATIVE RECOMMENDATION	174	22/12.6%	152/87.4%
TOTALS, ABOVE 3 CATEGORIES	1,572	228/14.5%	1,344/85.5%

* for the purposes of this analysis, the category WHITE includes all other (Indian, Asain, Spanish Surname, etc.)

NARRATIVE SUMMARY OF THE ABOVE DATA

The difference between the % of blacks enrolled and the % of blacks withdrawing from school, or dropping out of school, is statistically insignificant. For all practical purposes, there is no difference.

The difference between the % of black students enrolled and the % of blacks involved in suspension incidents is statistically significant (12.7% vs. 33.8%).

CONCLUSION: While blacks are being suspended in numbers out of proportion to the total black population, they are not being expelled, withdrawn, removed, or separated from the system, nor are they dropping out of school, in numbers out of proportion to the total black population.

Secondary School Withdrawals, 1973-74

School	% Black Enrollment	Dropouts (W34,35,36,37,39,51) Black #	%	White #	Administrative Recommendations (W52) Black #	%	White #	Expulsion (W40,53) Black #	%	White #	Total Black #	%	White #
Andover	5%	6	4.5%	127	1	11.1%	8	-	--	-	7	4.9%	135
Brooklyn Park	9%	3	7.3%	38	6	15%	34	-	-	-	9	11.1%	72
Glen Burnie	3%	4	2.8%	137	2	3.5%	56	-	-	-	6	3.1%	193
Corkran Jr.	3%	2	11.8%	15	-	--	-	-	-	-	2	11.8%	15
Lindale Jr.	5%	0	0%	13	0	0%	1	-	-	-	0	0%	14
Marley Jr.	4%	1	10%	9	0	0%	1	0	0%	1	1	8.3%	11
Sev. Pk. Sr.	4%	13	8.6%	138	0	0%	6	0	0%	3	13	8.1%	147
Northeast	4%	16	7.8%	188	4	11.8%	30	0	0%	1	20	8.4%	219
Geo. Fox Jr.	4%	1	2.6%	38	-	--	-	1	100%	0	2	5%	38
Sev. Pk. Jr.	0%	0	0%	10	0	0%	5	-	-	-	0	0%	15
Arnold Jr.	5%	0	0%	3	1	50%	1	0	0%	1	1	16.7%	5
Arundel Sr.	11%	23	10.0%	209	-	--	-	0	0%	2	23	9.8%	211
Arundel Jr.	14%	1	11.1%	8	0	0%	1	-	-	-	1	10%	9
MacArthur Jr.	12%	1	11.1%	8	0	0%	2	0	0%	1	1	8.3%	11
Annapolis Sr.	33%	56	40.3%	83	6	75%	2	1	100%	0	63	42.0%	85
Southern Sr.	25%	35	26.1%	99	0	0%	4	0	0%	1	35	25.2%	104
Annapolis Jr.	22%	19	35.2%	35	2	67%	1	3	-	1	24	39.3%	37
Bates Jr.	39%	12	50%	12	-	-	-	1	100%	0	13	52%	12
Southern Jr.	39%	--	--	--	-	-	-	-	-	-	0	0%	0
Learning Ctr.	45%	6	37.5%	10	-	-	-	1	50%	1	7	38.9%	11
TOTAL	12.0%	199	15.1%	1180	22	12.6%	152	7	36.8%	12	228	14.5%	1344

Codes for grades other than . . .

- Special Group Codes -

Note:
- These codes are to be used to identify the specific group to which students have been assigned when the assignment deviates from the traditional 00-12 grade.
- This code must be entered on the Monthly Attendance Report under the word OTHER.
- Do Not use a code which is not actually a part of your instructional program.

Example: A student is sent to the Learning Center from your school.

1) You transfer him
2) The Learning Center enters him and reports his attendance via code 40
3) You do not report any 40's on your local report

	Elementary	Secondary
Educable Retarded	20	30
Learning Disorder	21	31
Orthopedically Handicapped	23	33
Hearing Impaired	24	34
Emotionally Handicapped	25	35
Communication Disability	26	36
Trainable (Pre School)	50	--
Trainable (Primary)	51	--
Trainable (Intermediate)	52	--
Trainable (Junior)	--	53
Trainable (Senior)	--	54
Trainable (Co-op)	--	55
Learning Center	40	40
Evening High	--	45
Non Graded	60	80
Pre School	70	--
Continuum	27	37

WITHDRAWAL CODES

W30	Physical illness (doctor's certificate required)
W31	Physical disability--including pregnancy (doctor's certificate required)
W32	Mental illness (doctor's certificate required)
W33	Mental disability (doctor's certificate required)
W34	Employment (When used for pupils under sixteen years of age, superintendent's approval is necessary)
W35	Marriage
W36	Military service (enlisted or drafted)
W37	Incompatibility between school and pupil (sixteen years of age and over)
W38	Removed by court action
W39	Economic reasons other than employment
W40	Special case: Under sixteen years of age--expulsion for disciplinary reasons with approval of superintendent
W41	Special case: Immaturity in children under compulsory attendance age
W42	Special case: Other reasons with approval of superintendent
W43	Death
W51	Incompatibility between school and pupil (sixteen years of age and over) - decision of parent and/or student
W52	Withdrawal recommended by School Administration as alternate to expulsion (sixteen years of age and over)
W53	Special case: (sixteen years of age or over) expulsion with approval of superintendent

EXPLANATION OF WITHDRAWAL CODE "W-52"

This computer code is used for

> Withdrawals recommended by the school administration as an alternate to expulsion (over 16 years of age).

Here is how this occurs:

No student is arbitrarily separated or withdrawn from school. Withdrawals under the W-52 code result from a lengthy process of conferences with students, parents, pupil personnel workers and the principal.

The student in question is told, in a conference with the principal, that his performance and his behavior in school is a cause of considerable concern.. (The reasons for this, obviously, vary from student to student.) The student is told that unless there is some improvement, it may be necessary to withdraw him from school.

If there is no improvement, a conference with the principal, the student, and parents or guardians is held. At this conference, the parents and the student are asked to make a commitment that improvement will be made. This agreement, in most cases put in writing, states that only if improvement is made may the student remain in school. The principal makes certain that both the student and the parents understand this before the conference is ended.

If no improvement is made, the principal sends a letter to the parents indicating the agreement has not been lived up to, and indicating to the parent that immediate improvement will be required to keep the student in school.

If no improvement is then forthcoming, a conference is held with the student [illegible] ~~pupil personnel worker~~ wherein alternatives to regular school attendance are recommended, such as evening high school. A letter is then sent to parents indicating to them that their child has been withdrawn from school, pursuant to the understanding reached in the aforementioned parent conference.

Student often told - 'look, if next Semester - [illegible] you want to get serious, come back and we'll [illegible]"

Attachment H-40

STATE OF MARYLAND
EXECUTIVE DEPARTMENT
ANNAPOLIS, MARYLAND 21404

ARVIN MANDEL
GOVERNOR

October 9, 1974

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

I have received your letter of October 7, 1974 and agree that the issues you raised must be resolved quickly and impartially.

I have, therefore, directed the State Board of Education to conduct a public hearing into whatever complaints there may be concerning racial discrimination in the disciplining of children in the County school system. I have invited Mr. Peter Holmes of the U. S. Office of Civil Rights to be present at the hearing and to present whatever information he may have concerning such alleged discrimination.

A copy of my letter to Dr. Sensenbaugh and to Mr. Holmes is enclosed.

Sincerely,

Marvin Mandel
Governor

STATE OF MARYLAND
EXECUTIVE DEPARTMENT
ANNAPOLIS, MARYLAND 21404

MARVIN MANDEL
GOVERNOR

October 4, 1974

Dr. James A. Sensenbaugh
State Superintendent of Schools
State Board of Education
P. O. Box 8717
Baltimore-Washington International
  Airport
Baltimore, Maryland 21240

Dear Dr. Sensenbaugh:

Yesterday I received a letter from Dr. Edward J. Anderson, Superintendent of Schools for Anne Arundel County, in connection with an investigation allegedly being conducted by the U.S. Department of Health, Education and Welfare, into charges of discrimination in the disciplining of school children in Anne Arundel County. A copy of Dr. Anderson's letter is enclosed.

It appears from Dr. Anderson's letter that one complaint of a general nature and two complaints of a specific nature have been made with respect to certain practices in the Anne Arundel County school system. These complaints have been highly publicized by H.E.W. and yet, after fourteen months, there has apparently been no resolution of them.

It is impermissible for any school system in this State to practice racial discrimination in any form. Since it appears that H.E.W. is either unwilling or unable to complete its investigation of these long-standing complaints, I am directing that the State Board of Education, at the earliest practicable time, set this matter down for a public hearing so that these charges can be aired, reviewed, and resolved. It is my desire that the Board itself hear these complaints and any defense which the county school system may have to them, and that this not be referred to a hearing examiner.

As you will see from Dr. Anderson's letter, there is involved in the current H.E.W. investigation, the most serious question of permitting access to individual student records, which, under State Board of Education by law, are declared confidential. The Board must address itself to this question.

I am, by separate letter, inviting Mr. Peter Holmes, Director of the U.S. Office for Civil Rights, to be present at the hearing and to present whatever information and evidence he or his office may have.

I consider these two matters -- whether there has in fact been racial discrimination practiced in Anne Arundel County and whether unlimited access to confidential student records can be permitted -- to be critical questions of highest priority. I therefore request that the Board act promptly and that I be fully informed as to results of the hearing.

Sincerely,

Governor

cc: Mr. J. Jerome Frampton, Jr.
Dr. Edward J. Anderson

STATE OF MARYLAND
EXECUTIVE DEPARTMENT
ANNAPOLIS, MARYLAND 21404

MARVIN MANDEL
GOVERNOR

October 9, 1974

Mr. Peter Holmes
Director of Civil Rights
U.S. Office of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Mr. Holmes:

It has come to my attention through a letter from Dr. Edward Anderson, Superintendent of Schools for Anne Arundel County, that your office has, for the past fourteen months, been investigating a number of complaints charging discrimination by the county school system in the disciplining of children. These complaints have been highly publicized and have apparently not been resolved despite the fourteen month investigation.

I have made it clear to Dr. Anderson that, as Governor, I will not tolerate the practice of racial or any other type of improper discrimination by any of our county school systems, and I deem it important that all evidence and information with respect to these charges, or any others which your office may have, be publicly aired and resolved.

Dr. Anderson has informed me also that your office has demanded unlimited access to thousands of individual children's records, which under State law, are, quite properly, made confidential. Neither Dr. Anderson nor I have any idea of the uses which you would intend to make of the information obtained from these records.

If in fact discrimination is being practiced, it is unfair and unacceptable to the children of Anne Arundel County to permit such practices to continue. On the other hand, if such discrimination is not being practiced and the charges being made are without substance, it is unfair and unacceptable to permit the county school system to remain under a cloud of suspicion any longer.

I have therefore directed the State Board of Education to conduct a public hearing into these matters at the earliest practicable time. Although I am sure you will be requested to appear by the State Board of Education, I, as Governor, am requesting that you and/or your staff appear at the hearing and present whatever information you may have with respect to any complaints, documented or otherwise, of discriminatory practices in the Anne Arundel County school system.

Sincerely,

Governor

cc: Honorable Caspar W. Weinberger
Secretary, Health, Education & Welfare
Honorable Charles McC. Mathias, Jr.
Honorable J. Glenn Beall, Jr.
Honorable Marjorie S. Holt

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

October 17, 1974

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County Public Schools
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

I have received your letter dated October 9, 1974. In that letter you "rejected" compliance with Items 2 through 5 of the requests this Office made by letter of September 27, 1974, seeking access to your district pursuant to 45 CFR §80.6 for the purpose of ascertaining the compliance of the Anne Arundel County Public Schools with Title VI of the Civil Rights Act of 1964.

Your denial of access to your school district by this Office constitutes a failure to comply with Title VI of the Civil Rights Act of 1964 and the Regulation thereunder. Given your continued failure to comply with our repeated requests, I have determined that the compliance of the Anne Arundel County Public Schools with Title VI of the Civil Rights Act of 1964 and the Regulation thereunder cannot be secured by voluntary means.

I am today notifying you, pursuant to 45 CFR §80.8 (a) (1), that it is my intent to refer this matter to the Department of Justice with a recommendation that appropriate action be taken to enforce the provisions of Title VI of the Civil Rights Act of 1964. Pursuant to 45 CFR §80.8 (d), no action will be taken for at least 10 days following the mailing of this letter, during which period the Anne Arundel County Public Schools may comply with the requests of this Office.

In accordance with the coordinated Enforcement Procedures for Elementary and Secondary Schools under Title VI of the Civil Rights Act of 1964, issued by the U.S. Department of Justice, each Federal agency extending assistance to schools will be notified of this action.

My staff is always willing to extend any further assistance as may be needed to aid you in complying with the requirements of Title VI.

Sincerely yours,

Peter E. Holmes

Peter E. Holmes
Director
Office for Civil Rights

cc: Chief State School Officer
Regional Director, HEW
Regional Attorney
Director, Office for Civil Rights, Region III

[illegible]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

Honorable Marvin Mandel
Governor of Maryland
State of Maryland
Executive Department
Annapolis, Maryland 21404

Dear Governor Mandel:

Thank you for your letter of October 9, 1974, which expresses your concern about the activities of this Office in regard to its review of possible racial discrimination in the student disciplinary practices of the Anne Arundel County Public Schools.

Let me assure you, first of all, that the Office for Civil Rights has not been conducting an investigation of student disciplinary practices "for the past fourteen months." The facts are that in May of last year our regional office in Philadelphia received a complaint alleging racial discrimination in the Anne Arundel County Schools filed by a group of black parents and the Southern Christian Leadership Conference. In July and September, 1973, regional office staff attempted to begin a full investigation into the validity of the complaint, but after meeting with school officials about the general purpose of the review they were halted in their effort to commence the review by a decision of the school administration not to permit our staff access to any records, confidential or otherwise, which pertain to student discipline. From that time until July 1 of this year, no member of this Office set foot in Anne Arundel County Schools pursuant to that complaint or any matter pertaining to student discipline practices. In May, I instructed my immediate staff in Washington to reopen inquiry into the validity of the complaint, and in June I met with Dr. Anderson to explain the need for proceeding with the inquiry, and received from him assurance of his full cooperation and that of his staff.

This Office finally commenced its on-site investigation on August 21, 1974. Members of my staff met with members of Dr. Anderson's Central administration staff on August 21, August 23, and September 11. By letter of September 16, 1974, Dr. Anderson withdrew his cooperation and stated he considered the inquiry "closed." In short, my staff, both from Philadelphia and Washington has had extensive discussions regarding the nature of our investigation of the Anne Arundel County Schools with school system officials. In ascertaining whether or not there is racial discrimination in the operation of student disciplinary practices in Anne Arundel County Public Schools, it is necessary not only to examine documents issued by the Superintendent's Office, but also to examine the operation of the policies in the schools where students are located. However, the school district has refused to allow this Office to have access to any of the Anne Arundel County schools for the purpose of conducting this review, despite our repeated requests.

Dr. Anderson has apparently advised you that our office has demanded "unlimited access to thousands of individual children's records." While the Department has asserted its right of access to any information pertinent to ascertainment of this school district's compliance with Title VI of the Civil Rights Act of 1964, in fact, the number and type of school district records which this office might actually seek to examine are limited solely to items of information which have direct bearing on a proper subject of inquiry, in this case, administration of student discipline.

I share fully your concern for the confidentiality of student records and the possible harmful effect of unwarranted disclosure of their contents. My instructions to my staff were specifically to avoid, except where necessary, reviewing individual student records during the investigation, but where the circumstances of the review required examination of certain student records, the staff was to observe the strictest confidentiality possible as mandated by the Federal Civil Rights regulation. [illegible]

Requests for access to such records, if such access becomes necessary, will be strictly limited only to those items that relate to student disciplinary actions. We have advised Dr. Anderson that specific requests will be made in writing to the school administration. I stress, however, that to date, my staff has made no demand for access to any particular student's record.

I would add that the school administration has provided statistical data on student disciplinary actions which was made available to us after a lengthy delay in April of this year as a condition of eligibility to receive Federal assistance under the Emergency School Assistance Act. This data, while helpful, was not sufficient in and of itself for making a determination of whether discrimination exists in student discipline practices.

Let me assure you also that I completely agree that it would be unfair to the county school system to remain "under a cloud of suspicion." Nothing would please this Office more than to be able to proceed expeditiously with the inquiry along the lines of cooperation which Dr. Anderson and I agreed to in June so that the complaints and any other indications of possible racial discrimination in student discipline practices can be finally resolved and the determination made known to the general public.

Because of the school administration's refusal to permit the inquiry to continue, it may well become necessary for this Office to initiate legal action against it in Federal District Court. Counsel has advised me that in view of the probability of litigation it would be inappropriate for me or members of my staff to participate in the hearing which you have directed the State Board of Education to conduct.

Again I wish to assure you of my hope that these matters can be brought to a rapid and satisfactory conclusion.

Sincerely yours,

Peter E. Holmes

Peter E. Holmes
Director
Office for Civil Rights

cc: Director, Office for Civil Rights, Region III
Chief State School Officer

Attachment - A-42

HEW 10/25

Dr. "B" -

Received a call - 2:35 p.m. from Dave Gerard, OCR, HEW.

Wanted to know if we had rec'd. Holmes' latest letter - & if what our plans might be - in other words, "might we choose to comply voluntarily?"

Told him I had seen a copy of the letter, but, had not had opportunity to discuss w/ you - that you were attending meeting of State Supts. & would not be returning to the Ofc. until Monday.

He said he would call me again on Weds., 10-30-'74.

Attachment - A-44

At Mr. "A's" request - 12/20

Call Gerard - offer to mt. w/ Holmes - just "A" - & Holmes. Will be glad to take him to L.C. - Anna, Jr., et. al.

Meet "A's" ofc. -

"No publicity" !!!

Gerard's ofc - 1-301-245-6500

Called 12:15 p.m. - Gerard "out sick" - .

Jeff. called 4:00 p.m. - can reach at 1-301-245-6291.

Attachment - A - 45

Called Jeff back 4:30 - 10/30
extended offer - "pleased
to mtg. w/ Holmes - down
here".

Either Jeff or Gerard will
call me back tomorrow.

Dave Gerard - 10:30 a.m. 10/31
"Holms' out of town - mtg.
area dirs. - rest of wk - ."
"What does this mean - change
in status?"
Don't know - but Dr. "G" will rel
take to see L.C., etc. -
"O.K. message has been rec'd.
will be in ~~[illegible]~~ touch."

Attachment A-46

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

188 Green Street
Annapolis, Maryland 21401
Telephone 301 268-3345

November 6, 1974

Mr. Peter E. Holmes, Director
Office for Civil Rights
Department of Health, Education and Welfare
Washington, D. C.

Dear Mr. Holmes:

In our telephone conversation yesterday you said that although no formal charges have been lodged against us, your agency wishes to continue its investigation of student disciplinary practices within our school system, and is asking our cooperation.

We continue to be puzzled as to why you feel we have not been cooperative. We feel we have been extremely cooperative throughout this investigation. As you know, we have given your agency every information item and school system record it has requested, with the exception of records personally identifying students or parents. And, under State laws, we cannot release these records without the written consent of parents. Our cooperation has extended to repeated and lengthy interviews with administrative personnel. With regard to your request to interview other members of the staff, all we have asked is that such persons be advised, in advance of their interview, of their basic rights and be allowed to request and receive a complete transcript of the interview if they so desire.

A complete list of all the information we have given you is attached. We are frankly at a loss to determine what further information is required to resolve either the three specific complaints which have been entered against us, or the larger question of our compliance with the Civil Rights Act of 1964 with regard to overall student disciplinary practices.

If, as you indicated yesterday, you truly need further information, we are willing to continue to cooperate with your agency, as we have since your first entry into this county on the question of student discipline in July, 1973, but only if your agency is willing to be equally as cooperative with regard to the methods and procedures to be used. We do not consider this an unreasonable, or unlawful, posture.

Sincerely,

Edward J. Anderson
Superintendent of Schools

EJA:nm
encl.

COPY

[illegible] C. [illegible], president, F. Carroll Smith, vice president, Dr. Delores C. Hunt, Mrs. Maureen Lamb, Col. Raymond C. [illegible], [illegible] Robinson (student member)

- HEW-OCR- Complaints - from Gerard - 9-11-74 Attachment A-47

emorandum

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
Office for Civil Rights

: File of Anne Arundel County, Maryland DATE: June 13, 1974

: Equal Opportunity Specialist

CT: Complaint from Mr. Feilding Gentry (301) 267-9434 - Business (301) 268-1423

1. I received a call from Mr. Gentry at 5 p.m., Thursday, June 13, 1974. Mr. Gentry complained that his son, Christopher, had been unjustly suspended from the Annapolis Junior High School because of his race.

2. Mr. Gentry explained that the shop teacher, Mr. Showater, who is white, has caused his son's suspension for reasons that he considers trivial. He stated that other black parents have had the same trouble with this school and this teacher, as well as other teachers at the school.

3. Mr. Gentry explained that he went to the school for a parental conference and the school officials during the conference continuously made remarks to him that had racial overtones. He stated that they used such expressions as "how you black people are", "what do you people expect".

4. Mr. Gentry is himself a teacher in the D. C. School System. I told Mr. Gentry that an OCR team would be coming to the district soon to begin an inquiry into the disciplinary problems in the district. I told him that we would be in touch with him for an interview once that inquiry was underway. Mr. Gentry promised to send us a letter detailing his complaint.

Theodore G. Nixon
Theodore G. Nixon

902D Royal St.
Annapolis, Md. 21401
May 1, 1974

ttention: Mr. Ted Nixon
ealth, Education and Welfare Office
Civil Rights
x 131716
iladelphia, Pa. 19101

ar Mr. Nixon,

I am writing in regards to my son Derek D. Johnson, 902D Royal St. napolis, Md. 21401, Age 14, D.O.B. 12/8/59. I have been having some fficulty in this county as far as discrimination and towards the rents and children of the Black Race. I have been conversing with several times over the telephone periodically. rough my conversations I have been trying to explain the situation our Black Children in Anne Arundel County Schools. I have a ld in which has become fearful of school because of the laws and situations in which has been placed on them. I have some very finite proof of what has been happening throughout his schooling. Little more proof than the Board of Education has allowed me to have. cause I keep all records. I will present them if necessary. have most of my children suspension letters. I also demanded my childs cords from the Board of Education, in which I recieved a few. I so told them that I would take it to court if they had any they had thhold. Because if they could send some then they should be able to nd all. If anyone of the organization which has the authority to do so ay may, contact me and question them. I have had all sorts discrimination racism showed to my children. I will discuss this later.

Blacks are living in fear of the white man in this county. Not by olent action as some people live. But the kind of action in which does no show unless it is carefully examined. Most people fail to see that rson can hurt more by action than by words. They fail to see what is ng on. This is how some people trys to fool people. They say your ld has violated the laws of the school but what is the laws of the ool when all laws made is the whites mans laws in his own defense. t like the laws of the laws of the United States. I am not trying to be prejudice because I am not. There are some good whites as well Blacks when proven. Last year my child was suspended from April to . This he has been suspended from April to present. How can he arn. They placed a probationary period from one school to another. they are removing him from another school. I pay taxes as well others, why does my child have to go through such harassment. has been suspended approximately 20 or 30 times never a very rious offense. I am not able to complete my complaint due to e fact that I feel they should be explained more carefully to t some one to understand. How can we protect our children when hav no rights. We have given birth to more likely animals instead children as far as the white man in Anne Arundel County are ncerned,

will be looking to hear from you. Soon Please.

Sincerely yours,
Mrs. Mary C Johnson

.S. I am sincere about this situation this why I sign Sincerely.

'll some one please investigate my child's case. I would ke to further his education.

(2)

The
Pa[illegible]' Association
P. O. Box 1964
Annapolis, Maryland

RECEIVED
'73 [illegible] 21 [illegible] 2:13
HEW [illegible]

Mr. Wego
Regional Directors' Office
Civil Rights Division
Department of Health, Education &
Welfare
P. O. Box 13716
Philadelphia, Pennsylvania

Dear Mr. Wego,

We represent parents of Black children in the Maryland State-Anne Arundel County school system.

Our concerns we feel are within the ambit of your departments' jurisdiction, since the basis of our complaints center around patterns of discrimination practiced by the school system in Anne Arundel County.

In the last month we have been seeking explanations concerning our childrens' complaints to wit; we were refused public meetings with proper school officials, indications of administrtive coverups, sabotage of public meetings that the Parents' Association had called to air complaints and a host of other intimidations of our children who dared to make their complaints known.

Our allegations have been inquisitory rather than accusatory to this point. However, the strange and unusual manner of response of the administration gives rise to a belief that there is true merit to our childrens' claims. We seek your office to investigate the entire Anne Arundel school system - from Meade Village to Southern High School to find out if there is merit to what appears to be a pattern of "sit down, shut up or get out" messages given our Black children.

Examples of our complaints have been attached to this letter. We request that the investigation process of your office not be limited to the school and school forums alone, but rather that it be based in the Black Communities, where the parents and children will feel less intimidated. Often poor Black people feel afraid to voice complaints in foreign forums.

Our organization and S.C.L.C. would be pleased to assist you in making contact with complaintants.

The last major complaint flows to the very essence of our childrens' academic experience. It is the fact that Black experience is localized by our school system into subjects rather than being intertwined within the total academic experience, i.e. "Black History". We feel this creates conceptual segregation of our race and makes us apart from the intertwined and inextricable course of experience. And that this conceptual segregation creates inoperative social systems to develop in the minds of white and black children living in a legally integrated society.

Also, we would like to see initiated the using of the 'Situational Attitude Scale' developed by Drs. William Sedlacek and Glenwood Brooks as a method of determining racist attitudes that we [illegible] are prevelant in the children and teachers. These attitudes f[illegible] [illegible]e more salient outbursts such as fights and subsequent disc[illegible] [illegible]y discipline.

Sincerely,

Martha Wood

Mrs. Martha Wood, President
Parents' Association

Sam Kennedy

Mr. Sam Kennedy, S.C.L.C.
Anne Arundel County

Anne Blumenberg

Miss Anne Blumenberg S.C.L.C.
Anne Arundel County

Mrs. [illegible], President, The Parents' Association, employee of the Salvation Army, Assistant Director of the Marylandettes Drum and Bugle Corp, member of Asbury Methodist Church, mother of three children and grandmother of three

Dr. Samuel Kennedy, Chairman of the Southern Christian Leadership Conference of Anne Arundel County, graduate of the Law School of the North Carolina Central University, and a parent

Anne Blumenberg, Housing coordinator for the Community Action Agency, Co-chairperson of the SCLC of Anne Arundel County

Mrs. Virginia Brown Davis, Vice-president of The Parents' Association, member of Asbury Methodist Church, and a member of the Key Board, and a parent

Mrs. Rosalie Mitchell

Mrs. Rosalie Roberts, Vice-president of The Parents' Association, employee of the Internal Revenue Division of the State of Maryland, former teachers aide at the Adams Park School, and a Licensed Practical Nurse, and a parent

ARUNDEL COUNTY PUBLIC SCHOOLS

Annapolis Elementary School
Green Street
Annapolis, Maryland 21401
Telephone: 301-263-3992

April 3, 1973

Mrs. Martha Wood
P.O. Box 1159
Annapolis, Md. 21401

Dear Mrs. Wood:

This is a response to your letter informing me of a place, time and date for a meeting with members of the Parent's Association.

The school's Faculty Council and I will be more than happy to meet with the members of the association and you on Tuesday, April 10, 1973 at 3:00 P.M. However, since the complaints are concerned with school matters, it will be possible for the meeting to take place at the school in the school's multi-purpose room on the above date and at the above stated time.

If the members and you can not attend the meeting at Annapolis Elementary School, I am suggesting that appointments be made individually or collectively to see me at an agreed convenient time during the school day, by calling the school's office number 263-3992 or writing a letter.

Thank You Kindly,

S. M. Milbourne

S. M. Milbourne

Principal

TION.
[illegible]

Parents' Association
P. O. Box 1934
Annapolis, Maryland

April 10, 1973

Mrs. Shirley Milbourne, Principal
Annapolis Elementary School
Green Street
Annapolis, Maryland

Dear Mrs. Milbourne,

We set up our public meeting at the First Baptist Church because of your refusal to meet with us previously at the school. At this time we have no intention of changing our plans. We will be having a public meeting as stated in our previous correspondence and as was stated in a phone conversation between you and Mr. Kennedy.

It is our hope that you will attend.

Very truly yours,

Mrs. Martha Wood

Mrs. Martha Wood, President

IMPORTANT NOTICE

The Principal and Faculty Council of Annapolis Elementary School will hold its meeting with [illegible] and members of The Parents' Association on Tuesday night, April 10, [illegible] at 8:00 P.M. in the school's multi-purpose room.

The meeting will be focused on "School-Community" [illegible]

SURVEY REPORT OF CHILDREN FROM FOURTH WARD ATTENDING ADAMS PARK SCHOOL

The Parents Association of the Fourth Ward had received many verbal complaints from parents and children concerning the poor treatment given by the Principal of Annapolis Elementary School and some few members of her staff. As a result, a survey was taken to determine the extent of this treatment among school children and the feelings of Parents about the school.

The following materials include 1) The tally sheet showing results of fifty-six surveys completed and, 2) Statements of incidents showing poor treatment taken from the surveys. This survey is still being conducted as parents continue to make complaints.

Mrs. M. Wood, President
Parent's Association

THE PARENTS' ASSOCIATION

P. O. Box 1984
Annapolis, Maryland 21404

Specific Complaints From Parents:

We have received reports from Mrs. Barbara Belt that her daughter has complained that Mrs. Johnson will not allow her to finish eating her lunch.

Mrs. Mary Brown complains that her child has been suspended from school for five (5) months and that she was notified originally by telephone. Her son attends school only for a half a day at this time. Another mother complains of a 4 month suspension. Mrs. Marita Coates complains of her child being suspended for two (2) months. He is now attending Parole School. Mrs. Powells' child was suspended for 10 days and she was notified by telephone. Mrs. Lula Whites' son was suspended from school for three (3) weeks and she didn't even know until she visited the school.

Mrs. Victoria Brooks charges that her child was unjustly suspended from school.

Mrs. Ethel Wells complains that her children cannot get water or go to the bathroom when necessary.

Miss Rose Marie Cove, Mrs. Nancy L. Barnes, Mrs. Catherine Chew, Mrs. Brandford and Miss. Butler all complain of mistreatment of their children at the hands of Evelyn Johnson.

Mrs. Mary Forrester states that her child complains that the teacher does more to help white students than black students.

Mrs. Nancy Barnes is upset that her child is forced to eat in the hall or school office sometimes.

Mrs. Catherine Chew complains of the physical education teacher, Mr. Lloyd, kicking her son.

Mrs. Mary Ann Brown states that her child was refused lunch because she was late for her meal ticket.

Mrs. Brandfords' daughter is upset because she is nor allowed to talk at lunch time. However, Miss. Butlers daughter was suspened from the cafeteria for a month.

Mrs. Fishers' child voluntarily walks home for lunch because of disturbances in the cafeteria.

Mrs. Alverta Cross also had her son transfered to Parole School. He now rides on the bus with the retarded children to get to school because it is the only way he can get there.

Mrs. Rosalie Mitchell finds that Mrs. Milbourne has a hostile attitude and needs to be dismissed. She also complains that children are forced to stand on chairs with their hands over their heads for misbehavior in the cafeteria and she complains of mass punishment.

EXAMPLES OF INCIDENTS TAKEN FROM SURVEY:

#1 - Student: . . . "I felt that I could tell Mrs. Milbourne about some of the problems we were having. When I got ready to talk she cut cross me and I tried so many times until I got exhausted I could have cried. She kept on stopping me out of her conversation until I got tired of trying. She said I should have been white and that I was prejudice and I tried to talk about the incident that happen in our Art Class, and she said that your Art teacher doesn't like you." "All of a sudden she let out a loud sound saying 'Listen everybody, Clara has a problem'!!! By that everyone knew she was trying to make me feel an outcast of the group."...

#2 - Parent: "My child was sent to office because of a note another child wrote, but I was not told about it. Sometime this child has to go to the office and eat lunch in the hall because of Mrs. Johnson."

#3 - Parent: "Mrs. Johnson has deprieved my son of lunch. Mr. Loyd has kicked my son in P.E. . . .".

#4 - Parent: "I had to go down there in order for her to return, so I went to the school the following morning. My daughter is in the First Grade and she was put out of school because of 'Temper Tantrums" . . ."

#5 - Parent: "Mrs. Milbourne and Mrs. Johnson have suspended my daughter from the Cafeteria for a month. . . ."

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

133 Green Street
Annapolis, Maryland 21401
Telephone 301 268-0346

September 16, 1974

Mr. Peter E. Holmes
Director, Office for Civil Rights
Dept. of Health, Education and Welfare
Office of the Secretary
Washington, D. C. 20201

Dear Mr. Holmes:

As you know, we have cooperated with the team of investigators sent by you to Anne Arundel County to review this school system's practices with regard to student discipline.

Careful review of the three specific charges you indicated have been lodged against us reveals these complaints to be vague, superficial, and having no basis in fact. We feel certain your inquiry has shown these charges to be entirely without foundation

With regard to the larger inquiry into student discipline practices countywide which your office has undertaken as a pilot project in an effort to determine the extent of so called second generation discrimination in the nation's public schools, we have supplied your team with copies of State Law, State Board of Education By-Law and County Board of Education policy as they relate to student discipline. You have also received copies of Administrative Regulations concerning this subject, various memoranda, copies of Student Handbooks, the Principal's Handbook, suspension and expulsion data for a 3-year period, referral data for the same period, dropout data and Court referral data, in addition to monthly reports of the Special Assistants to the Superintendent and narrative material regarding the Learning Center. Supplementing these various documents have been lengthy interviews with staff members. We trust all of this information has been useful to you.

In the absence of any formal charges, we consider the matters referred to in this lette now closed. We are sure you will agree the facts do not justify further interruption of the day-to-day operations of this school system, nor the further expenditure of valuable staff time by your agency and ours.

Sincerely,

Edward J. Anderson

Edward J. Anderson

Attachment A-48 November 6, 1974

Information, Material & Documents
Provided HEW, OCR, Investigators
In Connection with Inquiry-Student Discipline
Anne Arundel County Public Schools

Copies of all material pertinent to student discipline, suspensions, expulsions, withdrawals and confidentiality of student records - from State Law, Maryland State Board of Education By-Laws and Local Board Policy.

Copies of all Junior and Senior High School, Student Handbooks.

Summary Reports-by incident, by school, by grade, sex, race and disposition - of cases of serious student misconduct investigated by the Superintendent's office - October 1973 (initial report for school year '73-'74) and May 1974 and June 1974 (final and culumative reports for school year '73-'74).

Summary Report - by incident, by school, by grade, sex, race and disposition of cases of serious student misconduct, investigated by the Superintendent's office - school year 1972-1973.

Annual Reports -1971-1972-1973-1974 - Students referred to Juvenile Court - by cause, school, age, sex and disposition.

Suspension Data - 1972-1973, September 1973 thru December 1973 - by elementary, secondary, race.

Suspension Data - 1973-1974- by month, by school, by cause, sex, race, and duration.

School system Summary Report - Fall 1973 - Elementary and Secondary School Civil Rights Survey - Pupil membership by American Indian, Black, Asian American, Spanish Surname, other, totals.

Copy-Handbook, Emergency & Legal Procedures, Anne Arundel County Public Schools - containing directions, guidelines and supporting statutes - to principals and school staffs concerning:

> After-hour Disturbances; Alcohol, use or possession of; Arrests; Assault; Bomb Threats; Bus Behavior Problems; Bus Plan for School Disorders; Community Offenses by Students; Corporal Punishment; Demonstrations/Mass Protests; Disorderly Conduct in Vicinity of School; Disrupting a School in Session; Drugs, use or possession of; Fights, intervening in; Police Assistance (what to do when they come); Police Information (where to call, what to say);

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ovided HEW, OCR, Investigators

age: 2

Police Security for school-sponsored activities; Press Handling (in emergency situation); Protests; Questioning on School Premises; Searches and Seizures; Smoking on Bus; Suspensions, policies and laws; Trespassers/Intruders; Vandalism; Visitors; Warrants.

10 Data, Anne Arundel County Learning Center - Eligibility, Screening and Entry requirements, Description of Program, Procedures for Referral, Procedure for return to assigned school, Skills and Behaviors check list, Attendance Form, etc.

11 Parent Guide- Anne Arundel County Learning Center.

12 Selected Samples - Minutes, Citizens Advisory Committees - relating to parent concerns in matters of student discipline, school security, human relations.

13 Copy Guideline - Crisis Prevention & Intervention and Human Relations - Anne Arundel County Board of Education Policy #5-18.

14 Copies - correspondence - Citizens School Safety Committee:
- a. Mr. Allen's letter -6-14-73.
- b. Mrs. Dimc[illegible]te's correspondence of 11-7-73.
- c. Staff Response - 12-5-73.

#15 Memorandum and copy of Student Information Bulletin, "Need Help With A School Problem ?" - October 11, 1973.

#16 Various memoranda -
- a. Memo-C. B. Carter - racial conflict, assaults, extortion etc. -Annapolis Junior High School - 9-16-71.
- b. Memo- Frank Ruffo-vandalism, discipline-Annapolis Junior High School - 9-21-71.
- c. Memo - Frank Ruffo-Actioh initiated -Annapolis Junior High School -9-24-71.
- d. Memo-C. B. Carter - Police Security -Annapolis Junior High School - 10-20-71.
- e. Memo-C. B. Carter- Meeting - Police-County Officials-Annapolis High School, 11-8-71.

ation, Material & Documents,
vided HEW, OCR, Investigators,

Page: 3

#17 Interviews:

a. 7-1-74 - Mr. Dave Gerard, Office for Civil Rights-C. Berry Carter, II, Deputy Superintendent

b. 8-21-74- Mr. Gerard, Mr. Jefferson, Mr. Spitz-Office for Civil Rights - C. Berry Carter, II, Deputy Superintendent, Mr. Bob White, Public Relations, Mr. F. Noel, Consultant in Community Affairs

c. 8-23-74 Mr. Gerard; Mr. Jefferson; Office for Civil Rights-C. Berry Carter, II, Deputy Superintendent

d. 8-23-74 Mr. Gerard; Mr. Jefferson; Office for Civil Rights- Mr. Noel, Consultant in Community Affairs

e. 8-23-74 Mr. Gerard, Mr. Jefferson; Office for Civil Rights-Mr. Turner, Special Assistant to the Superintendent

f. 9-11-74 Mr. Gerard; Mr. Jefferson; Mr. Nixon; Mr. Williams-Office for Civil Rights-Mr. Carter, Deputy Superintendent; Mr. Bob White, Public Relations, Dr. L. Alsobrook-Officer for Program Planning & Evaluation

g. 9-11-74 Mr. Gerard; Mr. Jefferson-Office for Civil Rights; Mr. Paul Acito, Special Assistant to the Superintendent

h. 9-11-74 Mr. Gerard; Mr. Jefferson-Office for Civil Rights, Mr. Carter, Deputy Superintendent

#18 Data - Entries, transfers and withdrawals - 1973-1974 - by school, by grade, by category, by sex and by race.

February 27, 1975

Ms. Christine D. Ver Ploeg
Department of Justice
Washington, D.C. 20530

Dear Ms. Ver Ploeg:

In accordance with Judge Northrop's suggestion please call me so that we can arrange a meeting with our respective clients as soon as possible.

Very truly yours,

Thomas J. Wohlgemuth

TJW:mhw

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. [illegible]

[illegible]

JSP:CVP:bew
DJ 169-35-2

MAR 7 1975

Mr. Thomas J. Wohlgemuth
Smith and Wohlgemuth
190 Duke of Gloucester Street
Post Office Box 26
Annapolis, Maryland 21404

Dear Mr. Wohlgemuth:

Enclosed please find a copy of the Order which we believe is accordance with Judge Northrop's oral ruling of February 21, 1975. Could you please respond to this proposal by March 17, 1975 so that we can proceed with this matter without further delay? Unless I hear from you by that time I will assume that we are unable to reach agreement and I will forward a copy of this Order to Judge Northrop, requesting a meeting between us in his chambers.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By: Christine Ver Ploeg
CHRISTINE VER PLOEG
Attorney
Education Section

March 14, 1975

Ms. Christine D. Ver Ploeg
Department of Justice
Washington, D.C. 20530

Dear Ms. Ver Ploeg:

I have your recent letter together with a proposed Order.

I have not seen the transcript of the Judge's ruling on our respective Motions as yet. I do not believe it has been typed and left with the Judge for his review and editing.

I would suggest that any further discussion as to what Judge Northrop said at the hearing abide the receipt of the actual ruling as I believe this was the Judge's intention.

I might say the proposed Order is unacceptable in certain respects and your proposal is more strict than what the Office of Civil Rights has earlier agreed to do with the Board of Education.

To prevent any further misunderstanding as I believe you have had in the past with the Office of Civil Rights concerning what they have negotiated with the Board of Education, I would suggest that you contact Mr. Holmes' office and review, if necessary, the items of correspondence that have transpired between our clients.

Very truly yours,

Thomas J. Wohlgemuth

TJW:bdm

APR 13 1975

JSP:CVP:hcw
DJ 169-35-2

Honorable Edward S. Northrop
United States District Court
Calvert and Fayette Streets
Baltimore, Maryland 21202

Dear Judge Northrop:

Enclosed please find a proposed order which we believe is consistent with your ruling of February 21, 1975. In drafting this order we have attempted to safeguard the rights of the Anne Arundel students and avoid undue inconvenience to school officials, while at the same time allowing the investigation by the Office for Civil Rights to proceed as required by law.

A phone conversation with Mr. Wohlgemuth on March 7, 1975 indicated that he will continue to refuse Department officials access to school records despite the ruling of February 21, 1975. On March 7, 1975 Mr. Wohlgemuth was sent a copy of the enclosed order and a letter requesting a definitive response to these proposals.

In a phone conversation of April 15, 1975, Mr. Wohlgemuth once again stated he could not agree to the tenor of this proposed order. It was agreed that we will each submit a proposed order for your consideration.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

By:
CHRISTINE VER PLOEG
Attorney
Education Section

April 17, 1975

Honorable Edward S. Northrop
United States District Court
Calvert and Fayette Streets
Baltimore, Maryland 21202

Dear Judge Northrop:

I have received a copy of Ms. Ver Ploeg's letter of April 15th in which she has enclosed a proposed Order which she believes consistent with your ruling of February 21, 1975.

I am sure you are not concerned with telephone conversations between attorneys but I would like to set the record straight for Ms. Ver Ploeg.

After the hearing before you on February 21st, I requested a meeting with Mr. Alexander C. Ross and Ms. Ver Ploeg. They said they would be in touch with me. Having heard nothing I wrote to Ms. Ver Ploeg on February 27th requesting that she call me to arrange a meeting with our respective clients as soon as possible. I received a letter on March 10th dated March 7th enclosing a copy of a proposed Order demanding a response by March 17th. On March 14th I sent Ms. Ver Ploeg a letter, a copy of which I enclose herewith. I did not on March 7th nor have I ever indicated to Ms. Ver Ploeg that I "will continue to refuse department officials access to school records despite the ruling on February 21,1975". Your ruling on that date was oral. I requested a transcript of your ruling on that date. You had reserved the right to edit or change your ruling of that date. I told Ms. Ver Ploeg it would be prudent for both of us to await the actual receipt of your ruling. The transcript of your oral opinion was received on April 4th. When reviewed it was apparent that the proposed Order forwarded to me by Ms. Ver Ploeg was premature.

As I suspected the Order as proposed by the attorneys for the Civil Rights Division, representing HEW went beyond the letter agreements from Mr. Peter Holmes of the Office of Civil Rights. Although such conduct is not surprising, and is typical, I have suggested that Ms. Ver Ploeg consult with her client and at least conform to agreements between the parties in this matter reached after the action was initiated.

On April 15th, as stated by Ms. Ver Ploeg we had another telephone conference. At this time Ms. Ver Ploeg indicated she would not abide by that suit as initiated by the government. She agreed, nevertheless, that I should submit a proposed Order to you on behalf of the defendants and I would appreciate the opportunity of doing so after my return from vacation on the 24th of April.

Very truly yours,

Thomas J. Wohlgemuth

TJW:mhw
cc: Ms. Christine Ver Ploeg

CHAMBERS OF
EDWARD S. NORTHROP
CHIEF JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
BALTIMORE 21202

Rec'd 4/23/75

April 21, 1975

Ms. Christine D. Ver Ploeg
Attorney, Education Section
Civil Rights Division
United States Department of Justice
Washington, D. C. 20530

✓ Thomas J. Wohlgemuth, Esquire
190 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: United States of America v. Board of
Education of Anne Arundel County, et al.
Civil Action No. N-74-1270

Madam and Sir:

I have at hand Ms. Ver Ploeg's letter of April 15, 1975, along with her proposed Order. I also received Mr. Wohlgemuth's letter dated April 17, 1975.

In accordance with Mr. Wohlgemuth's request, I shall expect him to submit his proposed Order no later than Wednesday, April 30, 1975.

However, in view of the apparent continuing differences between the parties and counsel in this case, I suggest that you arrange to meet with me on Tuesday, May 6, 1975 at 10:00 a.m., in my chambers, to finalize the Order which will be filed.

Sincerely yours,

Edward S. Northrop

Edward S. Northrop

ESN:ps

c.c. Court File

LAW OFFICES
SMITH AND WOHLGEMUTH
190 DUKE OF GLOUCESTER STREET
POST OFFICE BOX 88
ANNAPOLIS, MD. 21404

MALCOLM B. SMITH
THOMAS J. WOHLGEMUTH
VINCENT A. [illegible]

TELEPHONE
ANNAPOLIS [illegible]
BALTIMORE [illegible]

April 22, 1975

Dr. Edward J. Anderson
Superintendent
Board of Education of Anne
Arundel County
Riva Road
Annapolis, Maryland 21401

Re: United States of America
vs. Board of Education of
Anne Arundel County
Civil No. N74-1270

Dear Dr. Anderson:

Enclosed herewith is a copy of the transcript in the above matter. Also enclosed are copies of my letters to Ms. Christine Ver Ploeg of February 27th and March 14th together with copies of her letters to me dated March 7th and April 15th.

Very truly yours,

Thomas J. Wohlgemuth

Thomas J. Wohlgemuth

TJW:mhw
Enclosures

Mr. HOLMES. Did they provide to us full data, Senator?

Senator BEALL. It is in the record. November 19, 1974. We have in the record the county's response to the general complaints received. The county responded, I understand, to the extent they could, because nothing was specific about the complaint.

The complaints mentioned no particular student, no particular schools, or no particular dates.

Mr. HOLMES. This response was, you say, September 1974?

Senator BEALL. We put it in the record in November 1974. I do not have the date here in the record as to when the county made the response.

What I am getting at, for the first year the investigation conducted by HEW seems to have been conducted on the basis of the general complaint that was received?

Mr. HOLMES. I was trying to correct that, perhaps that misunderstanding.

In the summer of 1973, the contact with the school system, in July 1973, was as a result of the existence of that letter received by us in May 1973. In the winter of 1974, additional information came to our attention in connection with the submissions made by the school system, in the context of our pregrant review under ESAA pertaining to 34 schools.

Furthermore, in the winter of 1974, we had reviewed the discipline data supplied by the school system to us for the fall of 1973 in their standard annual survey.

My point is that from May 1973 until the summer of 1974, substantial additional information came to our attention indicating to us more strongly a need to conduct a districtwide investigation of disciplinary practices in Anne Arundel County.

Senator BEALL. Subsequent to that time we asked for specific information from HEW. As a matter of fact, on February 18, 1974, we asked for specific information, information as to specific complaints. We did not receive any.

You are saying that the complaints you had did not come from aggrieved citizens, but came as a result of your study of information furnished to you by the Anne Arundel County school system?

Mr. HOLMES. I would not characterize them as complaints. It was information. It was information provided to us in the fall of 1973 survey form that indicated there was a disproportion in the school district between—substantial disproportion between blacks and whites who were subject to discipline.

Senator BEALL. Then what you had at that point then was this general complaint——

Mr. HOLMES. Plus a survey.

Senator BEALL. Plus a survey form, and no specific complaints?

Mr. HOLMES. Plus finally in the spring of 1974 the information supplied us by the school system for the 34 schools in connection with ESAA, plus by that time two individual complaints that were received by us in the spring of 1974.

Senator BEALL. But on the basis of the general complaint, plus the data that you picked up in the forms furnished you by the county you then asked for the general countywide information?

Mr. HOLMES. That is right.

Mr. Chairman, if I may make one further point. This is going back. We have no objection whatsoever to focusing, in the initial phase of the review, on the individual complaints, which is a point that you have made to me for some time—no problem. And if we have access, if we have the same access that the State board of education task force has, to schools, teachers, information, and they have gone through this, we could take a position on those complaints.

But the point I want to make is that we see a need, we have identified a need for a more comprehensive review of the disciplinary process in Anne Arundel County. And let us say hypothetically that we would find with regard to the two individual complaints that neither of those individuals have been discriminated against on the basis of race, that conclusion on our part would not cause us to discontinue our review of districtwide disciplinary practices.

Senator BEALL. In other words, you do not think you should have a valid complaint, an established valid complaint before you engage in a districtwide inquiry?

Mr. HOLMES. Correct. It is not necessary for us to have a complaint——

Senator BEALL. I know it is not necessary. But I said do you think you should have it?

Mr. HOLMES. No; I do not.

Senator BEALL. You do not think you should have it?

Mr. HOLMES. I do not.

Senator BEALL. You just proceed, if you decide, if the Office decides that you would like to look at a particular school system, you just feel that you should go ahead and look at it, in the absence of a valid complaint?

Mr. HOLMES. The regulation indicates that from time to time we have an obligation to undertake a routine review.

I might add, Senator, for the record, that prior to 1973, from the date of passage of the Civil Rights Act, there was no—and I think this is correct—there was no comprehensive review undertaken of the Anne Arundel County school system. There were a number of communications with the school system. But there was no comprehensive onsite review between 1967 and 1973. That is my understanding.

Further, let me make this point. An individual, or a group of individuals, may have been discriminated against on the basis of race, and not have either known of the existence of a Federal law, let alone a Federal agency, to bring that matter to the attention—may not have filed a complaint, is the point I am making. May not be in a position to file a complaint.

So we are under our regulation charged with undertaking routine compliance reviews from time to time. That is why we collect this data and other information on an annual basis, to assist us in determining our annual compliance priorities.

Senator BEALL. I do not think anybody quarrels with that, Mr. Holmes. I think the question is at what point in your investigatory process does the county become required to tear itself upside down and inside out to furnish the volume of information which may or may not be of some use to you——

Mr. HOLMES. At no point.

Senator BEALL [continuing]. And which causes them to spend a great deal of time and effort and money in furnishing the data?

Mr. HOLMES. At no point.

Senator BEALL. I think that is what concerns us. At least it is what concerns me.

At what point do we start interfering with the county's ability to provide quality education for all the children, by encumbering it with unreasonable demands that consume too much of its time and its energy?

Mr. HOLMES. Mr. Chairman, I do not mean to be disrespectful, or to be facetious, but I daresay that the time expended by officials of my office and officials of Anne Arundel County in arguing about this matter for the last 2 years far exceeds the amount of time that may have been necessary to collect the data.

Now, I made the point, and I continue to make the point, that much of the data that we have requested is in existence. The deputy superintendent's log is something that the school officials need not spend a long weekend putting together. It is there. It is in existence.

The permission for us to go to a school, an individual school, and interview a principal or a teacher after hours—we do not insist that it be done to the disruption of the school schedule in any way, it is something that I do not think we can reasonably describe as burdensome.

Senator BEALL. On February 18 we wrote you, and we questioned the desirability of our office demanding of the Anne Arundel County school system a record of the disciplinary action by race of the county's 25,000 schoolchildren, a 13-year history of the coaches of the district, and a listing of racially isolated classrooms.

You asked for that information within 15 days. Do you think that is a reasonable request?

Mr. HOLMES. Mr. Chairman——

Senator BEALL. I cannot get an answer from your Department in 15 days, let alone get this kind of information.

Mr. HOLMES. The 15 days, I hasten to note, we are always flexible on. But let me mention that this request was made in connection with ESAA. We were under great pressure in the Department for fast turnarounds on making decisions regarding the eligibility of school districts for assistance under the Emergency School Aid Act.

It was in the interest of the school system to secure an indication early. As it turned out, because of the continuing refusal of the school system to provide data, until you intervened, it was very late in the whole funding process that we were finally able to approve the application.

Senator BEALL. Were other school systems asked for the same kind of information, school systems that wanted emergency funds?

Mr. HOLMES. That is right.

Senator BEALL. Three-year disciplinary actions, coaches——

Mr. HOLMES. My understanding is that similar information was requested of other school systems that were applying for emergency school aid funds, unless we had recently completed a review and had that information on file.

Senator BEALL. Would you provide for the record the total resources allocated through your Philadelphia regional office, and the amount in manpower hours, field visits, and total resources spent in Maryland, as compared with other areas, and would you also provide the same breakdown for counties in the State within the last 3 years?

Mr. HOLMES. Yes. I will also add the city of Baltimore to that, if you do not mind.

Senator BEALL. Yes. We meant to include the city of Baltimore.

There are other questions here that we will submit for the record.

I wonder, in the drawing of the guidelines, how many educators and school administrators were used, and how much input there was from educators and school administrators in the construction of the guidelines for title VI?

And you can provide that for the record, if you would like.

Mr. HOLMES. Yes.

Senator BEALL. And for the record provide us a list of the total staff you have, and indicate the number of educators or experts of school administration on your staff, because I think it is important that while you obviously have a very important and very sensitive role to play in the educational process, I think it is also important that as you play that role, it be coordinated closely with the educational process.

It seems to me that it is necessary that people with educational experience be included among those in your office. I would assume they are already there. I think the record ought to show whether that would be the case.

Mr. HOLMES. Yes.

Senator BEALL. Thank you, Mr. Holmes.

Mr. HOLMES. Thank you, Senator Beall.

[The prepared statement of Mr. Holmes and other information supplied for the record follows:]

Statement of

Peter E. Holmes
Director, Office for Civil Rights
Department of Health, Education, and Welfare

before the

Subcommittee on Education
Committee on Labor and Public Welfare
United States Senate

April 30, 1975

The Office for Civil Rights appreciates the opportunity to testify on its compliance review procedures.

Specifically, we understand that the subcommittee would like to focus on reviews of student discipline practices, including such matters as our legal authority to pursue these cases, the scope of information deemed pertinent, and established priorities.

The Office for Civil Rights (OCR) enforces Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs, including those of school districts.

School districts subject to Title VI are required to submit a written assurance of compliance under which they are legally obligated to meet the requirements of Title VI and its implementing regulation. In addition to outlining various prohibited practices and imposing certain procedural requirements, the regulation provides that school districts, as well as other recipients of Federal funds, will maintain such records and submit such reports as may be necessary to ascertain compliance. School districts have also assured the Department that they will permit access to records, facilities, and other sources of information "as may be pertinent to ascertain compliance...." (45 CFR Section 80.6(b) and (c).

In sum, the regulation envisions a compliance program to enforce the statute and does not impose restrictions on the areas of inquiry and scope of information which the Department may pursue in order to effectively discharge its compliance responsibility.

In the elementary and secondary education area, OCR has sought to field a balanced compliance effort to deal with individual complaints and with many different but inter-related compliance problems that appear to affect large groups of students in a serious way. For instance, reviews have been conducted to determine the discriminatory effect of English language barriers, to investigate classroom assignment practices, to assess possible discrimination in the dismissal or demotion of black educators, to evaluate whether Title VI problems exist in vocational education, and to systematically evaluate whether minority children in large urban school districts are receiving equal and comparable educational services. Reviews have also been scheduled and conducted to ascertain whether school districts have adopted and are administering discipline policies in a non-discriminatory manner.

With respect to the question of school discipline, the methods used to conduct reviews, and the criteria applied to select certain districts for review, are basically similar to the approach taken in dealing with other compliance issues.

As for the methods used to conduct reviews, it is generally necessary to interview school personnel and students and to examine relevant school records. This information is then analyzed and a report of findings submitted to the district. Although the review of an individual complaint may not always require an exhaustive survey of district-wide practices and their effect, this will depend largely on the nature of the allegations made in the complaint. Generally speaking, in regard to complaints or other information suggesting a possible Title VI violation, OCR first requests information from the district which may, in turn, resolve the matter or dictate further inquiry by means of an on-site review.

As to the criteria applied, I am sure members of the Committee are aware that in enacting the Emergency School Aid Act in 1972, the Congress explicitly prohibited, by statute, discriminatory disciplinary treatment and provided that no funds under the Act were to be granted to districts that engage in such treatment. There is no doubt that this prohibition arose from a concern, expressed during hearings and referred to generally in the legislative history, about the "push-out" phenomenon and about reports that minority children were being discriminatorily suspended and expelled from school.

The Office for Civil Rights was likewise concerned about the problem and this concern grew as discussions were held with various civil rights organizations and as we gained first-hand experience in enforcing the civil rights - related requirements of the Emergency School Aid Act (ESAA). Various studies have been published reporting extensively on disciplinary practices and their effects, including "The Student Pushout, Victim of Continued Resistance to Desegregation", issued by the Robert F. Kennedy Memorial and the Southern Regional Council, and more recently, "Children Out of School in America", published by the Children's Defense Fund. In addition, I should mention that the Supreme Court has recently ruled, in Goss v. Lopez 419 U.S. 565 (January 22, 1975), that Constitutional rights are involved in the application of student discipline.

It was our judgment that the Office should gather, as part of its annual school enrollment survey, comprehensive data on the racial impact of suspensions and expulsions. The purpose of such data is, of course, to accurately determine not only the extent of the problem, in terms of any widespread disparity that may exist on the basis of race or ethnicity, but also to discern where the most serious compliance questions appear to have arisen. Standing alone such statistics do not establish that discrimination exists in any particular school district. Rather, the survey results with respect to the issue of discipline, or any other compliance issue, are normally used as one factor in setting priorities and in alerting the Office to the possibility of discrimination which we are obligated to investigate. Discipline data was included for the first time in the 1973-74 school survey.

As a practical matter, then, survey results, along with other considerations, influence the selection of districts scheduled for review. Additional factors are the number and nature of complaints alleging violations in particular districts, information brought to our attention by civil rights groups and other sources, the ongoing commitments and work priorities of the regional offices and of the Elementary and Secondary Education Division, the timely availability of technical expertise and legal counsel, and the objective of maintaining a compliance program that is nationally oriented and not focused exclusively on any one region of the country. Thus far in fiscal year 1975, 41 complaints alleging discrimination in the school discipline area have been received.

Essentially, all the facts and circumstances just cited have had a bearing in framing our approach to the question of discrimination in school discipline.

OCR has conducted 61 reviews under ESAA and Title VI which encompassed, at least in part, the issue of school discipline.

In addition, the Office decided to conduct a number of combined headquarters-regional office reviews which would address disciplinary procedures in a comprehensive manner in a number of cases where the information on hand, including survey data, raised serious compliance questions. Initially, we proposed to review the school districts of

Richland County No. 1 (Columbia), South Carolina; Akron, Ohio; Nacogdoches, Texas; and Anne Arundel County, Maryland. Two additional reviews will be scheduled this fiscal year.

All four of the reviews have been initiated and only in the case of Anne Arundel County have the school officials declined to permit the Office to schedule interviews with key personnel or to examine pertinent records. Specifically, in Anne Arundel County OCR was denied the right to visit selected schools and interview principals, teachers and other staff, and students. In addition, the district has refused to provide OCR with a copy of the Deputy Superintendent's log of disciplinary action and other school records which report disciplinary actions; written instructions or policies issued by principals of various schools bearing on the policies and procedures of applying suspension, expulsion, and other adverse action; for each selected school, a racial breakdown of students referred to principals or to the Superintendent's office for disciplinary action, the established procedures under which such referrals are made and the reasons for applying disciplinary action in such instances.

Because of the failure of the district to comply with its legal commitment to provide pertinent information, without which this Office can make no determination as to its compliance status under Title VI, we requested the Department of Justice to take legal action to secure our right of access to the material. Accordingly, a lawsuit was filed by the Government on November 19, 1974 in Federal district court in Baltimore.

During the hearing held on February 21, 1975, Judge Edward S. Northrop, Chief Judge of the Federal district court, ruled that no Federal or State law restricts OCR's access to relevant information, including information which the school district contended was confidential and therefore not releasable. A final order is still pending in the case.

In conclusion, Mr. Chairman, let me make several observations which I believe should be kept in mind in considering our course of action with respect to this case.

In the first instance, apart from private studies which have heightened national awareness of the problem, OCR survey data show that the frequency of expulsions and suspensions among minority groups is nearly twice that of white students. It is a situation which, under any reasonable standard, should warrant attention by an office such as ours which is responsible for enforcing Federal requirements of nondiscrimination.

Equally to the point, there is no escaping the fact that the survey data submitted by the Anne Arundel County school district, as well as the nature of the complaints received, raise compliance questions which should be reviewed. I referred to some of this data in testimony given last May before the House Subcommittee on Equal Opportunities.

The record clearly shows that the Office for Civil Rights has made every effort to cooperate with the school district in delineating precisely the type of information minimally required and in providing a reasonable opportunity to submit it under mutually agreeable conditions.

From the time when the Office first initiated a review of a complaint nearly two years ago, there have been at least 26 exchanges of correspondence between this Department and the Superintendent or his staff, and nearly all have dealt with the information needs of this Office. While the school district has supplied a great deal of material that is helpful, the compliance questions cannot be resolved until other, crucial information is furnished -- information and access to information that was spelled out again in my letter of September 27, 1974 to the Superintendent and information which the Superintendent, in his reply to me of October 9, 1974, declined to provide with the exception of one item.

Mr. Chairman, with your permission, I would like to submit for the record the Department's correspondence with the school district, the court complaint filed by the Department of Justice and related court motions, and a listing of expulsion and suspension data covering the Anne Arundel County School District.

With respect to our contacts with the school district, I would like to stress that we have always been sensitive to the need to safeguard confidentiality of student records. As I indicated, agreements can be worked out under which this confidentiality can be effectively preserved. One such method is to expunge the names of students by using a coding system.

Some objection has been voiced to the effect that, along with the three other school districts I named earlier, Anne Arundel was selected for a so-called "pilot review." There is no sneak magic to the term and the controversy may be more a matter of semantics than anything else.

The short answer is that historically school discipline represents a relatively new issue for the Office for Civil Rights, and obviously, one has to start somewhere. There are always going to be a number of "firsts" in regard to any situation of possible discrimination, just as there was a "first" ten years ago when the Office became involved in desegregating the dual school system. More appropriately, the word "pilot" should probably read "initial", in the sense that with respect to this issue, we are still in a formative stage, and certainly were a year ago.

By the same token, in undertaking reviews keyed to a relatively new compliance issue, there will always transpire, to some extent, a learning process as compliance staff become familiar on a first-hand basis with the policies and procedures of school districts. I ask the Committee: how else can it be?

Secondly, it is not unusual that the results of reviews help to fashion standards that, in turn, encourage all school districts across the country to adhere to the nondiscrimination requirements of Title VI. This is a pattern that may or may not hold in connection with the reviews of school discipline practices. The point is, however, that every school district review may potentially serve a wider purpose, in the same way that Federal district court decisions may ultimately evolve into a significant precedent. The Anne Arundel County review is no different in this respect than any other review. It was not selected arbitrarily but on the basis of serious compliance questions that came to our attention. Nor is the district being used to carry out a theoretical experiment extraneous to our responsibility to assure compliance with Title VI.

On a preliminary basis the Office has reviewed the report of the task force appointed by the Maryland State Board of Education to look into the school disciplinary practices of Anne Arundel County. The inquiry dealt primarily with two individual complaints and stopeed short of investigating district-wide, school-by-school disciplinary procedures. I am sure that the report will prove helpful, particularly the general observations and recommendations, and the Office has suggested a meeting with members of the task force to discuss in detail their findings with respect to the individual complaints. At the same time, I am sure you understand, the report does not remove our legal responsibility to assure compliance with Title VI on the basis of an independent assessment of all the facts when compliance questions arise, as they have in this case.

It is our hope that the task force report may encourage the Anne Arundel school officials to permit the OCR review to resume. In a larger sense, the ongoing stalemate over the essentially procedural, threshold question of access to information benefits neither the school district, the Federal Government, nor the minority children whose rights both parties, I am confident, seek to protect. For the government, the impasse translates into an expenditure of time and money that could be spent to better advantage, and the school district may well be simply postponing a final resolution of the questions involved.

From our perspective, the governing regulation, which authorizes full access to pertinent information, should be viewed by school districts not as a bureaucratic intrusion but as a fundamental protection of their right to a fair hearing on the basis of all the evidence. Such access is absolutely essential if the Office is to enforce the law according to sound evidentiary principles. Our purpose is not to bully school officials or to inundate them with frivolous or unnecessary demands for record-keeping and reports. Rather, the objective is to secure all relevant information bearing on the case so as to avoid mistakes and reach sound conclusions as to whether recipients of Federal funds are meeting their nondiscrimination obligations.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

JUN 18 1975

Honorable J. Glenn Beall, Jr.
United States Senate
Washington, D. C. 20510

Dear Senator Beall:

Thank you for your letter of June 12, enclosing a list of questions concerning the Anne Arundel County School District review.

There must have been some mixup, for we did not receive a copy of your written questions at the time of the hearing. Nor was it submitted subsequently along with the unedited transcript.

However, in reading the transcript it appears that most of the questions on your list were fully covered in my prepared statement and in the testimony that followed. In addition, at the conclusion of my testimony, you asked me to submit for the record answers to two of the questions on the list, which we have been working on. We will submit to your office answers to the remaining questions as soon as possible.

I regret that we did not keep your office fully informed of developments concerning the Caroline County review.

Let me assure you that we shall try to be more attentive in the future.

Sincerely yours,

Peter E. Holmes
Director
Office for Civil Rights

Mr. Peter E. Holmes

1. Would you advise the Committee of the date and nature of the initial complaint in the Anne Arundel County case?

2. Was not this complaint of the most general or vague nature? Do you regard such a complaint as sufficient to trigger an investigation as HEW has requested by Anne Arundel County?

3. When did you receive the first specific complaint, involving a specific student and situation?

4. What other, if any, methods might trigger HEW action in other school districts in this discipline area?

5. Have you in the approximately two years since the original complaints made a determination regarding the validity thereof? What additional information do you require to investigate the specific complaints to see if there was discrimination?

6. Is it not true that the school from which the original complaint arose had a black principal? Is it likely that a black principal would permit or tolerate discriminatory treatment of black students?

7. On the original complaint, Anne Arundel County responded to the extent they could given the vague and unspecified nature of the complaints. Was HEW satisfied with the response? Did you provide them with more specificity to enable a further investigation?

8. 45 Code Federal Regulations section 80 says you are able to investigate after a complaint or after a compliance review indicates a possible violation of title VI. Do you believe this provides you with the authority to acquire in any manner, at any time between 9 & 5, whatever information you desire from a school system because such school system receives federal assistance?

9. Sec. 602 of title VI says: "Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract, is authorized and directed to effectuate the provisions of Section 2000d of this Title with respect to such program or activitiy by issuing rule, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken."

   This seems to require the HEW's regulation must be in harmony with the educational objectives behind the authorizing statute. What directions or guidelines have you issued to implement this section of title IX?

10. Would you provide for the record the number of pilot or similar efforts you have made in this discipline area and the estimated cost?

11. (a) Would you also provide for the record the total resources allocated to or through your Philadelphia Regional Office and the amount and manpower hours, field visits, and total resources spent in Maryland as compared to other states within the same Philadelphia region?

    (b) Also, with respect to Maryland, would you provide me with the same breakdown for the counties within my State within the last 3 years, and I would say, within the next 15 days, except I know better with respect to HEW.

12. Although you have not been able to investigate validity of the individual complaints, the task force appointed by the Governor of Maryland has done so. They found "no evidence". Since the specific complaints do not appear to have merit, on what basis are you now proceeding?

    It appears in view of these findings, all you have left is appears to be a statistical difference? Is this true? Do you believe a statistical difference alone is sufficient to trigger alleged discipline discrimination charges?

13. ALSO, ONE OF THE ISSUES HERE WAS THE LEARNING CENTER IN ANNE ARUNDEL COUNTY. NOTWITHSTANDING HEW CONCERNS, THIS CENTER WAS PRAISED BY THE MARYLAND TASK FORCE. IT IS MY UNDERSTANDING THAT THE COUNTY ON A NUMBER OF OCCASIONS HAS INVITED YOU PERSONALLY TO VISIT THE CENTER. IN VIEW OF THE STATE TASK FORCE REPORT, DON'T YOU BELIEVE IT WOULD BE USEFUL FOR YOU TO TAKE A FIRST HAND LOOK YOURSELF AT THE CENTER'S PROGRAM AND PERFORMANCE.

14. DO YOU BELIEVE SCHOOL DISCIPLINE IS A SERIOUS PROBLEM? ARE YOU CONCERNED THAT HEW'S ACTIONS, WITHOUT MORE EVIDENCE THAN YOU HAVE HERE, WILL RESULT OR AT LEAST MAKE SCHOOL DISTRICTS FEEL THEY MUST HAVE A QUOTA SYSTEM FOR DISCIPLINE?

15. THE INFORMATION YOU ARE REQUESTING FROM ANNE ARUNDEL COUNTY, COULD YOU SECURE THIS INFORMATION FROM OTHER DISTRICTS?

16. THE MARYLAND TASK FORCE AND ANNE ARUNDEL COUNTY REACHED AN AGREEMENT ON GUIDELINES FOR THE CONDUCT OF THE INVESTIGATION.

THEY WERE:

1. Individual pupil records would be examined by the two Task Force members who were staff members of the Maryland State Department of Education;
2. Parental consent would be obtained when individual pupil records were examined;
3. The Deputy Superintendent would be requested to coordinate all contacts with the school personnel;
4. All persons interviewed would be advised that they may have present anyone they wished during the interview; and
5. Individuals interviewed would have an opportunity to review a copy of the notes taken during the interview so that it could be determined whether the statements contained therein were accurate.

THEY SEEMED TO WORK WELL. WHAT IS WRONG WITH THESE PROCEDURES? COULD HEW AGREE TO SUCH PROCEDURES? I FEEL CERTAIN ANNE ARUNDEL COUNTY WOULD.

17. IN THE 1967 CASE, US v JEFFERSON COUNTY, THE COURT STATED:

> . . . in determining whether school desegregation plans meet the standards of Brown and other decisions of the Supreme Court, . . . courts in this circuit . . . give "great weight" to HEW Guidelines. Such deference is consistent with the exercise of traditional judicial powers and functions. HEW Guidelines are based on decisions of this and other courts, are formulated to stay within the scope of the Civil Rights Act of 1964, are prepared in detail by experts in dducation and school administration and are intended by Congress and the executive to be part of a coordinated national program. . . .

WOULD YOU PROVIDE ME THE LIST OF NAMES OF INDIVIDUALS RESPONSIBLE FOR THE TITLE VI GUIDELINES AND HOW MANY WERE EDUCATORS OR SCHOOL ADMINISTRATORS? ALSO, WOULD YOU PROVIDE ME WITH A LIST OF YOUR TOTAL STAFF AND INDICATE THE NUMBER OF EDUCATORS OR EXPERTS IN SCHOOL ADMINISTRATION? I AM INTERESTED BECAUSE IN MUCH OF YOUR ACTIONS AND REGULATIONS, I SEE LITTLE EVIDENCE OF THE INVOLVEMENT OF EDUCATION EXPERTS?

18. WOULD YOU PROVIDE FOR THE RECORD A LIST OF ALL DISTRICTS RECEIVING ESAA FUNDS AND THE STATISTICAL DATA, AS INDICATED ON THEIR APPLICATION OR WHATEVER IT WAS THAT TRIGGERED THE ANNE ARUNDEL COUNTY INVESTIGATION WITH RESPECT TO DISCIPLINARY ACTION BY RACE. FINALLY, FOR EACH DISTRICT WOULD YOU INDICATE: (1) THE NUMBER OF GENERAL COMPLAINTS AND (2) THE NUMBER OF SPECIFIC COMPLAINTS RECEIVED.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

JUL 22 1975

Honorable J. Glenn Beall, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Beall:

This is in further regard to your letter of June 12 enclosing a list of questions to supplement the record of a hearing held on April 30, 1975, before the Subcommittee on Education, Committee on Labor and Public Welfare.

As indicated in a letter of June 18 from Peter E. Holmes, Director, Office for Civil Rights, most of the submitted questions were fully covered during his testimony before the Subcommittee. However, there are six questions on the listing which were not covered and responses for each are set forth below. In the interest of clarity, each of these questions is re-stated before an individual response.

Question 6

Is it not true that the school from which the original complaint arose had a black principal? Is it likely that a black principal would permit or tolerate discriminatory treatment of black students?

Answer 6

The original complaint which the Office for Civil Rights received contained general allegations of discrimination directed at the entire Anne Arundel County School District. However, attached to the complaint were also several allegations which, essentially, related to communication difficulties between parents of minority children who were attending the Annapolis Elementary School and the school administration. These difficulties, I am advised, appeared to contribute to disciplinary problems involving several minority students. The circumstances were unrelated to the fact that the principal of the Annapolis Elementary School, at the time the original complaint was submitted, was a minority female.

Question 7

On the original complaint, Anne Arundel County responded to the extent they could, given the vague and unspecified nature of the complaints. Was HEW satisfied with the response? Did you provide them with more specificity to enable a further investigation?

Page 2 letter to Senator Beall

Answer 7

The Office for Civil Rights did not receive from the school district a response or any explanation regarding the original complaint of discrimination.

Question 8

45 Code of Federal Regulations, Section 80, says you are able to investigate after a complaint or after a compliance review indicates a possible violation of Title VI. Do you believe this provides you with the authority to acquire in any manner, at any time between 9 and 5, whatever information you desire from a school system because such school system received Federal assistance?

Answer 8

The Title VI Regulation requires a recipient of Federal financial assistance to permit the Department access to sources of information necessary to the conduct of a compliance investigation. Specifically, 45 CFR Section 80.6 (c) provides:

> "Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this Part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law."

A copy of the Title VI Regulation (45 CFR Part 80) is enclosed for your information.

Question 9

Sec. 602 of Title VI says: "Each Federal Department and agency which is empowered to extend Federal financial asistance to any program or activity, by way of grant, loan, or contract, is authorized and directed to effectuate the provisions of Section 2000D of this Title with respect to such program or activity by issuing rule, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

This means to require the HEW Regulation be in harmony with the educational objectives behind the authorizing statute. What directions or guidelines have you issued to implement this section of Title VI?

Answer 9

Enclosed are three documents the Office for Civil Rights has issued in carrying out its responsibilities under Title VI of the Civil Rights Act of 1964.

The document entitled Policies on Elementary and Secondary School Compliance with Title VI of the Civil Rights Act of 1964 was issued in March, 1968. It sets forth compliance policies applicable to school systems and the Department's procedures to effectuate compliance with Title VI. The document amends and supersedes the "Revised Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964" issued in March 1966 and amended in December 1966.

The May 25, 1970 Memorandum was issued to school districts with more than five percent national origin-minority group children. The memorandum summarizes the obligations of school districts to provide equal educational opportunity to national origin-minority group children deficient in English language skills.

The January 14, 1971 Memorandum was issued to chief state school officers and school superintendents and outlines nondiscriminatory staffing and employment practices.

Question 12(a)

Although you have not been able to investigate validity of the individual complaints, the Task Force appointed by the Governor of Maryland has done so. They found "no evidence." Since the specific complaints do not appear to have merit, on what basis are you now proceeding?

Answer 12(a)

While the information and conclusions contained in the report prepared by a Task Force appointed by the State Board of Education will no doubt prove helpful, the Office is obligated to pursue its own review. The report does not remove our legal responsibility to assure compliance with Title VI of the Civil Rights Act of 1964. In this regard, under the statutory and regulatory procedures, we could not defer to the State Board the investigation of complaints, alleging a violation of Federal law, which are submitted to this Office. Certainly, any information gathered by the Task Force would be helpful in making our determination as to the validity of the individual complaints, but the Office is obligated to make an independent assessment. In addition, as reflected in the report, the Task Force evidently did not address the principal concern before the Office for Civil Rights, which is the question of whether discrimination exists in the district's student discipline policies and practices.

Question 12(b)

It appears in view of these findings, all you have left is a statistical difference? Is this true? Do you believe a statistical difference alone is sufficient to trigger alleged discipline discrimination charges?

Answer 12(b)

The existence of a statistical disproportion suggests the need for further inquiry to determine whether there is discrimination whether it be in student or teacher assignment, disciplinary practices, etc. In the process, there is no assumption by this Office that racial disparity as evidenced from statistical information constitutes a conclusion of discrimination on the part of the school district.

Question 16

The Maryland Task Force and Anne Arundel County reached an agreement on guidelines for the conduct of the investigation. They seemed to work well. What is wrong with these procedures? Could HEW agree to such procedures? I feel certain Anne Arundel County would.

Answer 16

Enclosed is a copy of an order entered on May 19, 1975 in the case U.S. v. Board of Education of Anne Arundel County, Maryland, et. al. The order sets forth specific requirements regarding the Department's conduct of a review of the Anne-Arundel County Public Schools which we are now following.

I hope this information will be helpful in supplementing the hearing record.

If I can be of further assistance, please let me know.

Sincerely yours,

Martin H. Gerry

Martin H. Gerry
Acting Director
Office for Civil Rights

Enclosures

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

January 14, 1971

MEMORANDUM

TO: Chief State School Officers and
School Superintendents

FROM: J. Stanley Pottinger, Director
Office for Civil Rights

SUBJECT: Nondiscrimination in Elementary and Secondary
School Staffing Practices

Title VI of the Civil Rights Act of 1964 requires that students in a school district receiving Federal financial assistance be afforded educational services free from discrimination on the ground of race, color or national origin. Since the Bradley and Rogers decisions of the Supreme Court in 1965 it has been clear that this provision precludes the assignment of teachers to public schools within the school system on a racially segregated basis. From more recent decisions of the courts of appeal, it has become equally clear that Title VI also precludes discrimination in the hiring, promotion, demotion, dismissal or other treatment of faculty or staff serving the students. This memorandum describes HEW policies reflecting more recent court decisions in each of these two areas.

The goal of HEW in rendering assistance to educational programs is to help school officials to achieve the highest possible quality of education for everyone. The elimination of discrimination in these programs is not only required by the law, but is consistent with this goal. Indeed, racial or ethnic discrimination in staffing actually deters the achievement of high quality educational opportunities.

School districts have for the past several years reported to HEW's Office for Civil Rights on the racial and ethnic composition of their staffs. It will now be HEW's policy to make further inquiry into staffing practices whenever it appears from this or other information either that a school district may be making its assignment of teachers or staff to particular schools on a basis that tends to segregate, or that the racial or ethnic composition of its staff throughout the system may be affected by discriminatory hiring, firing, promotion, dismissal or other employee practices.

Assignment of Staff to Schools

School districts that have in the past had a dual school system are required by current law to assign staff so that the ratio of minority group to majority group teachers in each school is substantially the same as the ratio throughout the school district. This is the so-called Singleton rule, enunciated by the Court of Appeals for the Fifth Circuit in January, 1970. The same rule applies to non-teaching staff who work with children.

Even though a school district has not in the past operated an official dual system of schools, its statistical reports may nonetheless indicate a pattern of assigning staff of a particular race or ethnic group to particular schools. Where this appears to be true, the Office for Civil Rights will seek more detailed information regarding assignment policies and practices. If it is determined that assignments have been discriminatory, the school district will be requested to assign teachers so as to correct the discriminatory pattern.

Hiring, Promotion, Demotion, Dismissal and Other Treatment of Staff

The reports presently being submitted to the Office for Civil Rights by local educational agencies reflect not only the assignment by race of teachers and other staff to particular schools but also reflect the total composition by race of the staff throughout the reporting school system and the hiring of teachers by race each year. With respect to the employment practices of each district it will be HEW's policy to make further inquiry into such matters when it appears (1) that there has been an abrupt and significant change in the racial or ethnic composition of the teaching or any other category of staff serving a particular school district, or (2) that the presence of members of racial or ethnic groups among newly employed staff members in any category differs significantly from their presence among qualified persons reasonably available for employment by the school district. HEW's Office for Civil Rights will ask school districts so identified to furnish more specific information concerning these practices in the following categories of staff:

1. Principals

2. Assistant Superintendents and other central office professional staff

3. Deputy, associate and assistant principals

4. Classroom teachers

5. Other professional staff for whom certification is generally expected, such as counsellors, librarians, and special education teachers

6. Other staff who work with children, such as teacher-aides and bus drivers

In each of these categories we will request information as to the identity of staff members who have been released or demoted, the reasons for release or demotion, the criteria used in selecting teachers for employment, promotion, release or demotion, and the comparative professional, educational and personal qualifications of the applicants and staff members involved.

This information will be analyzed, and, where necessary, additional investigation conducted to determine whether discrimination has been practiced. It is, of course, not possible to catalog all forms which such discrimination might take. Several of the more obvious methods of discrimination are:

1. Hiring--A school district which focuses its recruitment efforts on teacher training institutions attended predominantly by members of one race while ignoring institutions attended predominantly by members of another race is discriminating in its hiring practices. Similarly, the imposition of different hiring procedures, such as the requirement of additional personal interviews for members of one race as contrasted with others, is discriminatory. Discrimination in other features of the employment process may also be found in salaries offered, working conditions promised, training provided and tests or other qualifications imposed.

2. Promotions--The selection of teachers or other staff for promotion may be subject to racial discrimination just as the selection of teachers for employment. Any form of such discrimination would be a violation of law.

3. Demotions--The demotion of a staff member, whether involving a cut in pay or simply a change in duty, is discriminatory if it reflects a racial decision by the school administrators. Thus, if the consolidation of two schools necessarily results in the demotion of some staff members, such as department heads, counsellors and coaches, the selection of the staff members to be demoted may not be based upon race. The courts have also held that persons demoted as an incident to the desegregation process are to be given preference in future promotions.

4. Dismissals--Dismissal of a teacher for failure to meet certain standards or qualifications would, of course, be racially discriminatory if the same standards or qualifications were not applied to teachers of another race. A teacher who has been assigned to a particular school for racial reasons may not thereafter be dismissed if a reduction of force results in the closing of that school unless his qualifications for teaching are compared with all other teachers throughout the system and he has been found, under reasonable and objective criteria, to be less qualified than all teachers retained in the system.

If it is determined from the information furnished by the school district and from any other investigation that discrimination has been practiced, the school district will be requested to develop a plan for prompt corrective action. The types of corrective action required will depend upon the nature and results of the discrimination that has been practiced.

A discriminatory dismissal and its effect may be adequately corrected by reinstatement of the dismissed staff member together with the payment of any lost pay. Discriminatory hiring practices may be sufficiently corrected by adopting objective criteria and standards for future recruitment and hiring and by promptly offering positions to qualified persons who have been rejected or overlooked. In each case, however, the school district will be asked to develop and submit a specific plan for correcting the effects of the discriminatory practice and assuring against the repetition of such discrimination.

When it is clear that the effect of the discrimination cannot otherwise be corrected and the discrimination has in fact resulted in a significant distortion in the racial or ethnic composition of the staff, the school district may be asked to develop a plan designed to achieve a racial and ethnic composition of its total staff which will correct the distortion. In determining what that composition should be, consideration will be given to the past composition of the staff in each category and to information bearing on the reasonable availability of qualified teachers and other categories of staff from racial and ethnic minorities.

I have been assured by the Office of Education that it will give priority attention to requests for consultation and assistance in the development of realistic and educationally sound plans.

We in the Office for Civil Rights will be pleased to do everything possible to assist school officials to meet their Title VI responsibilities.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

JUL 10 1975

Honorable Claiborne Pell
Chairman, Subcommittee on Education
Committee on Labor and Public Welfare
United States Senate
Washington, D. C. 20510

Dear Senator Pell:

My staff and I have reviewed the transcript of testimony offered to the Subcommittee on Education, Committee on Labor and Public Welfare, on April 30, 1975. I would like to comment on certain statements made during the hearing by Dr. Edward J. Anderson, Superintendent, Anne Arundel County Public Schools, concerning the conduct of a compliance review of the school district by the Office for Civil Rights.

Dr. Anderson stated that my "staff demanded complete and total access to every record in the Learning Center. They demanded to talk with staff without having the protection of having a record of their conversation or if staff wanted to have someone present, that was denied also."

The team leader of the compliance review was Mr. David Gerard, who gave testimony during the hearing. Mr. Gerard has provided me with the following account of the meeting at which these subjects were discussed:

> "On September 11, 1974, team members and I met with Mr. Berry Carter, Deputy Superintendent, to discuss the conduct of the review. I stated that we wished an appointment with the principal of the Learning Center to discuss the case of one of his students who was the subject of a complaint. I explained that during the visit to the Learning Center, the team might ask to interview teachers and students. As for the examination of student records, this would be requested by writing in advance, as prescribed in my letter to him of July 9, 1974.

> "Mr. Carter asked whether a third party would be permitted during interviews because it was his intention to assign a person from his staff to be present at the interviews. I replied that it was not customary procedure to permit an assigned third party inasmuch as this would have the effect of intimidation on the interviewee. However, I said I would confer with my superiors on the matter and give him a reply within several days.
>
> "On September 13, at the direction of Mr. Holmes, I informed Mr. Carter by telephone that the Office for Civil Rights would not object to the presence of a third party during any interview provided that the interviewee so requested. However, the Office would not enter into any agreement that permitted the school administration to assign a member of its central staff to be present at an interview. Mr. Carter indicated that he thought such an arrangement would be acceptable."

It is my understanding that representatives from the Office of the General Counsel further discussed this matter with Mr. Thomas Wohlgemuth, Attorney for the Anne Arundel County Board of Education, assuring him that the Office for Civil Rights did not object to the presence of a third party at the request of interviewees. This matter was not raised again until after the Government initiated a proceeding in United States District Court for the District of Maryland, on November 19, 1974, to require the school district to grant this Office's access to pertinent sources of information for the purpose of conducting an investigation pursuant to Title VI of the Civil Rights Act of 1964. In a letter dated December 3, 1973, to Superintendent Anderson, I again assured the district as follows:

> "In regard to the procedure for interviewing school personnel, the Office for Civil Rights does not object to the presence of a third party or the making of a transcript at any interview with school personnel if either one is requested and arranged by the person to be interviewed."

During the hearing, Dr. Anderson also stated: "At the last meeting which we had in our Office, the statement was made - 'We have the right at any time in working hours to come into your school system and get any information we have and get anything we want.'" It appears that Dr. Anderson is paraphrasing 45 CFR Part 80.6(c) of the regulation under Title VI of the Civil Rights Act of 1964. This section states: "Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part." It is customary for compliance review teams to bring this section to the attention of school authorities in preliminary meetings regarding the conduct of a review. Dr. Anderson is referring, I believe, to a reading of this section during the September 11 meeting.

Furthermore, well before the initiation of the suit, Mr. Gerard advised the school district, in a letter of July 9, 1974, that the Office intended to notify the district in advance of the schools we needed to visit and the personnel we wished to interview so that mutually convenient arrangements could be made. The proposed procedure was confirmed in my subsequent letter to Dr. Anderson of August 9.

Contrary to the assertions Dr. Anderson made during the course of his testimony before the Subcommittee, the Office for Civil Rights had not received, at the time of hearing, information requested in my letter dated September 27, 1974 with the exception of student dropout data. All other requested information was explicitly "rejected" in wake of Dr. Anderson's letter dated October 9, 1974. At the time of the hearing this Office had not received the requested suspension information for the 1973-74 school year as contended in Dr. Anderson's statements before the Subcommittee.

In the course of his testimony, Dr. Anderson has repeatedly suggested that this Office's compliance review team did not conduct itself in " a perfectly, completely objective and professional manner." As Director, Office for Civil Rights, I expect all staff members whether engaged in a compliance review or in routine tasks, to conduct themselves as responsible, dedicated Federal employees. At no time before or after his testimony has Dr. Anderson described to me any specific instances of misconduct on the part of staff members, naming the persons involved and the facts surrounding unprofessional conduct. I have asked him in the past to put such information in writing to me. He has not done so. If such actions had been made known to me, I would have taken appropriate measures to correct such behavior.

I am pleased to report that this Office's review of the Anne Arundel County Public Schools has resumed.

Enclosed is a copy of an order entered on May 19, 1975, in the case U.S. v. Board of Education of Anne Arundel County, Maryland, et. al.

I request that this letter and enclosure be made part of the record of the hearing.

Sincerely yours,

Peter E. Holmes

Peter E. Holmes
Director
Office for Civil Rights

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA, :

Plaintiff, :

v. : CIVIL ACTION NO. N-74-1270

BOARD OF EDUCATION OF :
ANNE ARUNDEL COUNTY,
MARYLAND, et al., :

Defendants :

ORDER

The United States of America brought this action against the Defendants to enforce an Assurance of Compliance dated November 22, 1968 (HEW Form No. 441) requiring them to comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the regulation of the Department of Health, Education and Welfare (specifically 45 CFR Part 80) issued pursuant to that Title. The United States of America by representatives of the Department of Health, Education and Welfare sought access to pertinent sources of information in the Defendants' possession pursuant to an investigation of individual complaints from citizens alleging that their children were unfairly disciplined because of their race and, also, to pursue a "pilot review" of the entire Anne Arundel County school system to enable the Plaintiff to design techniques, methods and procedures to eliminate "second generation discrimination."

The Defendants moved to dismiss the complaint seeking an Injunction, contending that all the information requested from the Defendants had already been supplied to the Plaintiff, except confidential records; that Federal and State laws and regulations prohibit the Defendants' release of certain confidential records containing personally identifiable data the Plaintiff desired (Maryland Code Art. 76A Section 3, Maryland State Board of Education By-Law No. 751, Article 77, Section 6 of Maryland Code, Educational Amendments of 1974, Elementary and Secondary Education Act of 1965 Section 438); that Federal law requires notice from the Attorney General prior to instituting a civil action (Educational Amendments of 1974, Elementary and Secondary Education Act of 1965 Section 438(c)); that the assurance form was not a valid contract, being unilateral, vague, indefinite and lacking of consideration and a meeting of the minds between the parties; that the Secretary of Health, Education and Welfare had failed to promulgate procedures for the data gathering activities it was commencing as required by the Educational Amendments of 1974, and for other grounds.

The Defendants' Motion to Dismiss the action was denied on the grounds that the assurance statement was a valid contract and Defendants were bound thereby and that no Federal or State law prohibited access by the Plaintiff to the confidential records in the custody of the Defendants.

The Plaintiff moved for a Preliminary Injunction on the grounds that irreparable injury would result if the Injunction was not granted, and at a hearing on February 21, 1975, the Court denied the motion for Preliminary Injunction on the grounds that the Plaintiff made no showing that irreparable injury would result and that there was no reasonable probability that the Plaintiff would prevail at a hearing on the merits.

On May 6, 1975, the Court struck the Order of February 21, 1975, denying the Plaintiff's Motion for Preliminary Injunction and set down re-argument on the Motion for Preliminary Injunction and a hearing on the merits of the within proceedings for May 19, 1975.

Now, therefore, it is hereby ORDERED this 19th day of May, 1975, as follows:

1. In connection with the investigation of discipline of students the Defendants are to provide such access to the premises, records and other sources of information, including personnel and students, pertinent to ascertain compliance with the conditions of Federal assistance, as may be requested by responsible officials of the Department of Health, Education and Welfare pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d; and the regulation issued pursuant to this statute, 45 CFR Part 80; provided the actions of the representatives of the Department of Health, Education and Welfare shall be consistent with the achievement of the objectives of the statute authorizing the financial assistance in connection with which the actions are taken, and do not threaten the ability and resources of the Defendants in carrying out their principal task, the effective education of the youth of Anne Arundel County.

2. Records necessary to conduct the investigation will be supplied initially with names deleted and coded and, where it becomes necessary, personally identifiable student records and other records and confidential reports will be requested and supplied pursuant to paragraph 3(a)iiiiof this Order.

3. The investigation by the Department of Health, Education and Welfare is conditioned upon an adherence by the representatives of the Department to the following procedures:

(a) The investigation of the Anne Arundel County school system will be conducted in an objective and reasonable manner to insure that:

(i) With respect to any interviews by Department officials with personnel employed by the Defendant Board of Education or with students of the Anne Arundel Schools which are conducted on school property during regular business hours, the Department will notify Defendants at least 24 hours prior to such interviews and Defendant Edward J. Anderson or his designee shall make the necessary appointments with the individuals to be interviewed.

(ii) The Department will schedule phases of the investigation in cooperation with Defendants to insure that the educational process is not disrupted.

(iii) During any interview conducted by the Department the presence of a third party will be permitted and a record made of the interview if the person being interviewed so requests. The third party and recorder shall be identified to the interviewer in advance. The making of a transcript of an interview will be permitted if one is requested and arranged for by the person to be interviewed. Copies will be provided to both parties.

No student under the age of 18 shall be interviewed in the event of parental objection to such interview.

(iiii) Requests for personally identifiable student records and other confidential reports shall be submitted by the representatives of the Department of Health, Education and Welfare to the Defendants, and in the event of a refusal, then to this Court, and shall be provided by Order of this Court upon a showing of a proper and reasonable basis for such request. In such instances, the strictest confidentiality is to be observed by all parties as to the contents of the records and reports.

Pursuant to 45 CFR 80.6(c), information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal administrative enforcement proceedings or where otherwise required by law.

(b) Plaintiff is to begin the investigation of the Anne Arundel County school system as soon as is practicable. Individual complaints referred to in the original Complaint herein shall be investigated, resolved and a report rendered by the Department officials to the Board of Education of Anne Arundel County. Unless a report is received by the

Board of Education within 60 days of the date hereof the investigation of said complaints shall be considered closed.

(c) At the conclusion of the compliance review, the Department representatives shall notify the Board of Education of Anne Arundel County promptly of the findings of the investigation.

(Signed) Edward S. Northrop

Edward S. Northrop
Chief United States District Judge

12:00 P.M
10th May 1975

REGIONAL OFFICES

The regional offices of the Office for Civil Rights, including States and jurisdictions included under respective offices, are as follows:

Region I (Boston Regional Office for Civil Rights)
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region II (New York Regional Office for Civil Rights)
New Jersey, New York, Puerto Rico, Virgin Islands

Region III (Philadelphia Regional Office for Civil Rights)
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Region IV (Atlanta Regional Office for Civil Rights)
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Region V (Chicago Regional Office for Civil Rights)
Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin

Region VI (Dallas Regional Office for Civil Rights)
Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region VII (Kansas City (Missouri) Regional Office for Civil Rights)
Iowa, Kansas, Missouri, Nebraska

Region VIII (Denver Regional Office for Civil Rights)
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Region IX (San Francisco Regional Office for Civil Rights)
Arizona, California, Hawaii, Nevada

Region X (Seattle Regional Office for Civil Rights)
Alaska, Idaho, Oregon, Washington

Jurisdiction of Regional Offices -- School Districts and Schools

Region	Districts	Schools
I	822	5,141
II	1,158	6,931
III	735	9,096
IV	1,098	12,668
V	3,096	18,449
VI	1,508	8,759
VII	1,268	6,200
VIII	577	3,363
IX	869	7,745
X	512	3,483
National Totals	11,649	81,840

These data are based on the universe projections which include all school systems enrolling 300 or more students. These data represent 98.8% of all students enrolled in public school systems in school year 1972-73.

Jurisdiction of Regional Offices -- Student Enrollment in Public School Systems (Non-Minority and Minority Pupils)

Region	All Pupils	Non Minority	Minority
I	2,466,852	2,288,906	177,945
II	4,906,195	3,673,625	1,232,569
III	4,955,727	3,971,579	984,148
IV	7,272,500	5,071,528	2,200,972
V	9,903,809	8,490,397	1,413,411
VI	4,690,608	2,990,917	1,699,691
VII	2,389,987	2,153,559	236,428
VIII	1,353,768	1,200,941	152,826
IX	5,030,363	3,581,461	1,448,902
X	1,505,005	1,394,551	110,454
National Totals	44,474,819	34,817,470	9,657,349

These data are based on the universe projections which include all school systems enrolling 300 or more students. These data represent 98.8% of all students enrolled in public school systems in school year 1972-73.

Jurisdiction of Regional Offices -- Minority Student Enrollment in Public School Systems

Region	Minority	Black	Spanish Surname	Asian	American Indian	Non Black Minority
I	177,945	127,295	41,228	7,579	1,841	50,650
II	1,232,569	786,830	406,983	32,311	6,443	445,739
III	984,148	941,377	28,036	11,695	3,037	42,770
IV	2,200,972	2,090,355	84,679	7,468	18,468	110,616
V	1,413,411	1,192,030	168,243	23,724	29,412	221,390
VI	1,699,691	923,868	709,699	7,788	58,334	775,322
VII	236,428	205,602	19,735	4,535	6,553	30,925
VIII	152,826	25,850	93,109	6,204	27,662	126,975
IX	1,448,902	458,952	827,462	115,096	47,390	939,949
X	110,454	32,293	29,419	16,430	32,309	78,160
National TOTALS	9,657,349	6,784,458	2,408,599	232,835	231,455	2,872,990

These data are based on the universe projections which include all school systems enrolling 300 or more students. These data represent 98.8% of all students enrolled in public school systems in school year 1972-73.

Jurisdiction of Regional Offices -- Percent of National Totals

Region	Districts	Schools	All Pupils	Non Minority	Minority	Black	Spanish Surname	Asian	American Indian	Non Black Minority
I	7.06	6.28	5.55	6.57	1.84	1.88	1.71	3.26	.80	1.76
II	9.94	8.47	11.03	10.55	12.76	11.60	16.90	13.88	2.78	15.52
III	6.31	11.11	11.14	11.41	10.19	13.88	1.16	5.02	1.31	1.43
IV	9.43	15.48	16.35	14.57	22.79	30.81	3.52	3.21	7.98	3.85
V	26.58	22.54	22.27	24.39	14.64	17.57	6.99	10.19	12.71	7.71
VI	12.95	10.70	10.55	8.59	17.60	13.62	29.47	3.34	25.20	27.03
VII	10.89	7.58	5.37	6.19	2.45	3.03	.82	1.95	2.83	1.07
VIII	4.95	4.11	3.04	3.45	1.58	.38	3.87	2.66	11.95	4.42
IX	7.46	9.46	11.31	10.29	15.00	6.76	34.35	49.43	20.47	34.45
X	4.40	4.26	3.38	4.01	1.14	.48	1.22	7.06	13.96	2.72
National TOTALS	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

These data are based on the universe projections which include all school systems enrolling 300 or more students. These data represent 98.8% of all students enrolled in public school systems in school year 1972-73.

PERSONNEL STAFFING

*Fiscal Year 1969 - Fiscal Year 1975 Authorized Professional Positions
(Elementary and Secondary Education Division - excluding headquarters)

	FY 1969	FY 1970	FY 1971	FY 1972	FY 1973	FY 1974	FY 1975
Region I	2(3.3)	2(2.5)	6(5.2)	5(5.0)	7(4.9)	8(5.2)	8(5.3
Region II	9(15.0)	11(13.6)	12(10.3)	11(11.0)	14(9.7)	15(9.7)	17(11.3
Region III	6(10.0)	7(8.7)	11(9.5)	9(9.0)	14(9.7)	14(9.1)	12(7.9)
Region IV	15(25.0)	15(18.5)	20(17.2)	18(18.0)	25(17.4)	23(14.9)	22(14.6)
Region V	11(18.3)	17(21.0)	25(21.6)	20(20.0)	27(18.8)	25(16.2)	23(15.2)
Region VI	8(13.3)	13(16.0)	18(15.5)	13(13.0)	25(17.4)	25(16.2)	24(15.9)
Region VII	-	-	-	2(2.0)	3(2.1)	9(5.8)	9(6.0)
Region VIII	1(1.7)	2(2.5)	1(0.9)	2(2.0)	3(2.1)	8(5.2)	8(5.3)
[illegible]ion IX	8(13.3)	14(17.3)	21(18.1)	18(18.0)	22(15.3)	21(13.6)-	22(14.6)
Region X	-	-	2 (1.7)	2(2.0)	4(2.8)	6(3.9)	6(4.0)

The percentage of an individual regional office's personnel staffing to the total personnel staffing of regional offices is contained in parenthesis.

(a) proportion of professional staff dealing with Maryland school districts as compared with other states within Region III:

512 person days in Maryland or 2.38 persons = 17% of our Staff time.

17.3% of our Staff time in Pennsylvania
46.1% of our Staff time in Virginia
6.2% of our Staff time in West Virginia
11.0% of our Staff time in Delaware
2.4% of our Staff time in Washington, D.C.

(b) estimated proportion of compliance activity involving Maryland school districts:

The following is a list of Activities and percent of time spent in the State of Maryland:

Adams Reviews	44.5%
ESAA Post-Grant Reviews	10.0%
ESAA Applicants	9.2%
Voc-Ed Reviews	0.0%
Title VI and IX Reviews	16.7%
Complaints	33.3%

Average time spent in the above compliance activities for the State of Maryland is 17.1% of our Staff time.

(c) estimated proportion of compliance activity involving Baltimore City:

215 person days in Baltimore, Maryland equals 1 person full time or 7.1% of our Staff time.

A number of employees both within and without the Office for Civil Rights are involved in the preparation, review and issuance of guidelines and regulations for the implementation of nondiscrimination provisions of law. Included would be employees with professional backgrounds in education and school administration. Frequently, the expertise of educators not employed with the Federal Government is sought.

Of the 182 professional employees assigned to the Elementary and Secondary Education Division, 73 employees include education and/or school administration in their professional backgrounds.

Senator BEALL. The next witness is Dr. Edward J. Anderson, superintendent of public schools, Anne Arundel County, Md.

Please come to the table, and bring whatever associates you wish to accompany you.

STATEMENT OF DR. EDWARD J. ANDERSON, SUPERINTENDENT OF PUBLIC SCHOOLS, ANNE ARUNDEL COUNTY, MD.; ACCOMPANIED BY C. BERRY CARTER, DEPUTY SUPERINTENDENT OF PUBLIC SCHOOLS; THOMAS W. RHOADES, COORDINATOR OF RESEARCH, ANNE ARUNDEL COUNTY PUBLIC SCHOOLS; AND THOMAS J. WOHLGEMUTH, LAWYER, ANNE ARUNDEL COUNTY BOARD OF EDUCATION

Mr. ANDERSON. Thank you, Mr. Chairman.

Senator BEALL. Thank you for coming and appearing this morning. You may proceed as you wish.

And for the record, please identify those accompanying you.

Mr. ANDERSON. We want to express to you our appreciation for having us here today.

At the far end of the table is Dr. Thomas Rhoades, a research specialist in Anne Arundel County schools.

Next to him is Mr. Thomas Wohlgemuth, the board's attorney.

Next to him is Berry Carter, deputy superintendent of schools.

There is also present today, sir, Mr. George Osaki, the president of the board of education, Dr. Dolores Hunt, a member of the board of education, and Mrs. Maureen Lamb, a member of our board of education.

Senator BEALL. Thank you.

Mr. ANDERSON. After listening to Director Holmes' testimony, I am tempted to throw away the script, but I hope to be able to respond to specific instances your raise.

Senator BEALL. You may put the script in the record and speak however you see fit.

Mr. ANDERSON. All right, sir.

I would like to make one statement. I hope you will not feel me brash or absurd, but it is a serious statement, sir. I believe that we stand in an extremely critical point in this Nation—not just in Anne Arundel County—in our relationships to Federal agencies, specifically the one here today.

I believe that the entire public school system, as we have known it over the years, is in extreme danger. I do not believe I am alone in that belief. I am in close personal contact with many superintendents of very large school systems around this Nation; very close working relationships.

Given the information collected by Mr. Holmes, given the powers he says his agency has, I could control every school system in this Nation totally and completely. If I could do it, think of what people with more ability than I, such as Mr. Holmes, could do, if he so wished.

I do not think this was ever the intent of the Congress. I would hope to be able to support this statement with you today, sir.

Mr. Holmes' statement, as he laid it out, I cannot disagree with. But the process used by his staff, I would like to violently disagree with.

Let us start with the famous statement of 1973, at which time members of an investigating team—let me start over.

My secretary received a telephone call that a group of investigators from the Philadelphia office of HEW would be in our school system to talk with us about some complaints of racial discrimination which HEW had received.

A meeting was arranged for July 24. On that date, our records show four members of the Philadelphia staff of the office of civil rights, who described themselves as an investigative team, appeared.

There was no further identification other than that. We had no way of knowing, other than we had received a telephone call and people appeared on the scene describing themselves as an investigative team.

We had pulled together a great deal of information about our school system. We sat around the table for a number of hours. We discussed our relationship with black students, black parents, elected community leaders, self-appointed community leaders, and there was a wide range discussion over topics which included curriculum, employment, promotional practices of the famous learning center, the history of desegregation of the county, and especially the community action agency.

After a whole day, we were not given any idea of why the investigative team was there.

Finally, after a great deal of prodding, the list of complaints, called a general nature of complaints, was given to us. We arranged interviews between the HEW team and various staff members that day and the next day, as I recall the details. Some of those interviews were held and some were not. There was also a request for student records. We informed the members of the investigative team that we could not release identifiable student records to them. The demand was made nonetheless and I must say a demand was made that we release identifiable student records and that they had the right to them.

Senator **Beall**. How was that demand couched?

Mr. **Anderson**. In terms that "We have the right to it." It was a very strong demand.

We said we do not believe you have this right. They insisted that they did.

We provided them with a letter that we would not release identifiable student records.

The word they used in their demand for records was "unlimited access to student records and all other records in Anne Arundel County."

Senator, every record, regardless of what it was, except those records which identified individual pupils or individual personnel, are public property. There are no other records, which Mr. Holmes has discussed with you, that are not public property.

To get back to the investigative team, we called back from vacation the principal of Annapolis Elementary School, who came to our office the next day and waited to keep an appointment which had been set up with the investigative team. The investigative team never showed up, nor did they tell us why they did not show up. [See page 5 of prepared statement.]

This same series of general complaints has surfaced again a year later, and a change of complaints in a written form, I might say. There has been a lot of discussion about our original reply to that general list of complaints. In a letter, dated October 15, 1973, to Mr. James Wiegal, who was then handling the matter for HEW, Dr.

Alsobrook, Office of Program Planning, who was placed in charge—I might say these items were then sent to the Philadelphia office:

A summary of all serious behavior problems by school; secondary referral summary for Annapolis Senior High School; suspensions for Annapolis and South county schools in detail; detailed information on suspensions.

Also included, of a more general nature, a report of crisis prevention and intervention which was a special committee set up to deal with problems in the school; citizen advisory committee policies; Maryland data procedures relating to school grievances; student handbooks from Annapolis and South county secondary schools; and, finally, I have included some comments about the 14 complaints sent to you by the parents' association.

So that was filed on October 15, 1973.

I do not know why we can be accused of not sending information.

The infamous deputy superintendent's log is something else again. That is a log kept by the deputy superintendent, giving the names of youngsters when there are continuing suspensions. This is by name. It is to make sure that the processes are carried through and the youngsters are not left stranded; to see from our office if we can keep track of what is going on.

By the way, all the details resulting from that log are in suspension reports. Mr. Holmes' office has more than you can imagine in terms of that.

In terms of meeting with Mr. Holmes, let me get to what I consider the most important part of this.

We were called by newspaper reporters one day late and were told, "We have been notified that HEW is going to investigate you for discrimination against minority students."

Indeed, newspaper headlines were all over the place.

After that came a telephone call to notify us that, indeed, we were going to be investigated on a broad scope of investigation. That, in addition to that, there were some specific complaints to investigate, and we had no way of knowing what the complaints were. But this was it.

As a result of that tremendous amount of newspaper publicity, I called Mr. Holmes and advised him that we were not going to submit to this kind of harassment, and in your packet I believe you will find ample evidence of the newspaper publicity. [See exhibit B–1, following these remarks.]

I would never contend that Mr. Holmes does not have the right to conduct any investigation he wishes, but sir, I certainly do object to the process. This is my main objection, the process.

We do not believe, and will not accept, discriminatory practices in our school system. We will not tolerate them.

As a matter of fact, there is some evidence of dismissal of staff where we thought such things have happened before, and after this. And when you have a school system of roughly 80,000 young people, and around 7,000 employees, somebody every day is not going to like what someone else does. This is obvious.

Senator **Beall**. I think you ought to put that in the record, the evidence of dismissals, et cetera.

Mr. **Anderson**. We can provde that information.

[The information referred to follows:]

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

memo

TO Dr. Edward J. Anderson

SUBJECT Employee Dismissal Data

FROM Bob White, Information Officer
DATE May 1, 1975
COPY TO

Pursuant to your request that I gather data to supply the Senate Education Subcommittee regarding dismissals for reasons of discrimination, I have conferred with B. Lewis Langdon, director of personnel, and herewith submit a series of recent examples of such dismissals. In each case, employee referred to has been deleted, with his or her initials only appearing, for reasons of confidentiality. The following cases have been drawn from our employee file:

1. At the close of the 1972 school year, teacher G.B. was terminated. Amongst a number of deficiencies demonstrated by this teacher, the teacher discriminated against those children in her class whose parents brought complaint against the teacher. The teacher's primary method was to completely ignore these children, thus depriving them of the expected instructional services, and, in effect, ostracizing them socially. She also imposed on these children was what professionally considered to be unjust punishment, such as requiring a child to sit in a corner for a lengthy period of time.

2. At the close of the 1970 school year, teacher M.H. was terminated. Amongst a series of problems, this teacher continued to teach religion to her class. The teacher required a recital of prayers during opening exercises in the morning, prior to lunch, and as a form of punishment when children were kept inside during recess, or kept after school for some misdemeanor. This teacher completely ignored the requests of the children, their parents, and/or administrators td discontinue the practice. In some cases, the children were of the Jewish faith and were being exposed to Christian teachings. The principal gave a direct order to the teacher to discontinue the practice. The teacher refused.

3. At the close of the 1973 school year, teacher M.M. was terminated. This teacher had considerable difficulties in her relationships with students and their parents. When a parent complained about an action of this teacher, the teacher would single out the child for harrassment by calling the child uncomplimentary names, by announcing the child's complaint publicly to all students in the class, by cross-examining the child as to what the child told his or her parents. The teacher was transferred to another school for a "fresh" start, but the practices of discrimination continued.

The above examples, and others, are documented in our file. I hope this will be of some assistance to the committee.

[illegible]

B1. Press Coverage HEW Investigation

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

memo

TO: Edw. Anderson

SUBJECT: HEW/OCR meeting

FROM: Bob White

DATE: June 19, 1974

COPY TO

On the afternoon of Tuesday, June 11 Mr. David Gerard, program coordinator, elementary and secondary education division, Office for Civil Rights, contacted your office by telephone. He told your secretary, Mrs. Ross, he wished an appointment with you. He gave no indication at that time that he would be accompanied by anyone, nor did he give any detail whatsoever as to the subject of the meeting beyond the broadest general terms.

Within 15 minutes of Mr. Gerard's call setting up an appointment with you on Wednesday, June 19, at 1:30 p.m., Ms. Karen Hosler of The Evening Capital newspaper (Annapolis) contacted both your office and this office. In her conversation with me, she asked me if I would confirm that "HEW is sending a team of investigators from its Civil Rights Office to conduct further inquiry into the charge of racial discrimination in student disciplinary practices" in our schools.

I asked Ms. Hosler where she got that idea and she answered, "Oh, by the grapevine." I then told her she would have to quote her "grapevine," because I knew nothing of the meeting (which was true, Mr. Gerard's call having just been completed minutes before and the information not having reached me as quickly as it apparently reached Ms. Hosler).

[illegible] (Rev 10/71)

The next day, Wednesday, June 12, the following article written by Ms. Hosler appeared as the headline story at the top of Page One in The Evening Capital:

EVENING CAPITAL
WEDNESDAY,
JULY 12, 1974

U.S. probe of schools resuming

By KAREN HOSLER
Staff Writer

Investigators from the U.S. Health, Education and Welfare Department are scheduled to return to Anne Arundel County next week to resume a one-year-old probe into the handling of school discipline problems here, an HEW official said yesterday.

Louie Mathis, spokesman for HEW's Office of Civil Rights in Washington, said a special team of three investigators from the Washington office will meet with School Superintendent Edward J. Anderson next Wednesday to discuss the new phase of the probe, which Mathis described as "more comprehensive than has been done to date."

A windfall to ease desegregation impact. See Page 10.

Mathis said the investigators will be examining "the whole issue of discipline in the entire school system to determine whether it has been even-handed with regard to race."

Anderson was not available for comment on the new probe yesterday, however an aide said the superintendent would not make any statement on a pending investigation.

The HEW probe began in response to a complaint filed May 21, 1973 by the Parents Association of Anne Arundel County, a group of black parents from the Annapolis area who alleged that the school system was disciplining minority group members more severely than whites for the same school rule infractions.

Investigators from the HEW regional office in Philadelphia visited school officials here last July 24 and 25, requesting student records from five schools in the Annapolis area.

A controversy arose from Anderson's refusal to turn over the student records, which he argued are confidential under state Board of Education bylaws.

HEW officials threatened to cut off all federal funding if the school system did not comply with the investigator's request for information and Anderson held up the use of $851,000 federal grant awarded for the purpose of establishing intensive reading programs in schools affected by the court-ordered desegregation until the matter was resolved.

An agreement was finally reached in September when HEW officials agreed to accept an accounting of disciplinary incidents specifying the race of the students involved and what action was taken without requiring names or student records.

A second demand for information came Jan. 22 of this year when Dewey E. Dodds, director of the Philadelphia office, asked Anderson for three-year disciplinary histories of 25,000 students at 34 schools, a 13-year history of coaching in the county and a listing of racially isolated classrooms to determine whether racial bias was involved.

Anderson protested again saying that the information required was not only confidential but would take six full-time administrators six months to compile.

Another compromise was reached. In April the school system submitted to HEW a list of school suspensions by race from September 1973 to the spring of 1974 and a summary of serious disciplinary problems by race for that period and how they had been handled.

Neither list included the names of students involved.

Mathias could not supply any specific information about the nature of the new probe other than to say that it would not be confined to certain schools.

The investigators will go "farther into the discipline issue" on a system-wide basis, Mathis said.

PTA workshop set June 4

The Anne Arundel County Council of PTAs (CCPTA) has completed plans for the annual spring workshop for all new PTA officers in the county.

The workshop, to be held at Davidsonville Elementary School, June 4, 7:30 p.m., will feature as speaker George E. Surgeon of Brooklyn Park, principal of the year for Maryland.

The keynote theme is "Developing Parent-Teacher Relations." Mrs. George Kopf will introduce the new CCPTA officers.

Panel discussion groups will be formed for the topics: objectives for local PTAs, Developing Local PTA Projects and Activities, and Countywide PTA Activities.

Panel discussion leaders will include: Mr. Surgeon; Joseph Mirenzi, principal Arnold Junior High School; Eugene Gilhooly, principal Davidsonville Elementary School; Jean Beaudin, teacher specialist for student affairs; Donna Schreffler, TAAAC field representative; Naureen Lamb, candidate for the Board of Education; Elizabeth Slikker, outgoing president CCPTA; Robert Moore, incoming president CCPTA; James Buckholtz, vice-president CCPTA; and Robert Aulthouse, George Humphries, and John Radcliffe, local PTA presidents. Marlene Campbell, Southern area vice-president CCPTA, and the Davidsonville Elementary School PTA will provide hospitality for the workshop.

The spring workshop is designed to help new PTA leadership take charge and develop strong school-community relations and activities. Organizing an effective PTA takes skill, time, and work and the CCPTA works with local PTAs to achieve this. Being a chartered service organization, as opposed to being an arm of the County Board of Education, PTAs are in a position to meet with any level of government to solve problems or carry out projects.

The first record of a blood transfusion is of one given to Pope Innocent VIII in 1492 — the year that Columbus discovered America.

EVENING CAPITAL
THURSDAY, MAY 30, 1974

The following day, Thursday, June 13, a letter to you from Mr. Gerard was posted. In this letter, Mr. Gerard went into a bit more detail as to the subject of the meeting and indicated for the first time that others would be accompanying him on his visit to your office. This letter was received in your office on Monday, June 17.

However, on the same day Mr. Gerard's letter was posted, the Baltimore Morning Sun carried a story including considerable detail about the purpose of the meeting. This article was the first indication this school system had of this detail concerning the meeting.

The article follows:

June 13, 1974

U.S. civil rights team to tour Arundel district

By JAMES A. ROUSMANIERE, JR.
Annapolis Bureau of The Sun

Annapolis—A federal civil rights team has told Anne Arundel county school officials it will visit the school district Wednesday to look further into possible racial discrimination in student discipline.

The move is the latest installment in a year-long controversy involving school officials and the Office of Civil Rights of the Department of Health, Education and Welfare over allegations of disproportionately heavier discipline of minority students.

Indications yesterday, however, were that the interest of the agency in student discipline here may have taken a new twist as part of a congressional look into the phenomenon of "push-outs"—minority students forced out of public schools by strict discipline.

Twice in the last 18 months the agency and the school administration have clashed over the right to discipline records. In [illegible] compromises were reached giving the [Office of Civil Rights access] to statistical breakdowns of punishment in the schools. The concessions by the school district opened the way for federal grants for special reading programs.

The latest probe, however, is not linked to any specific grant, and the visit is being made by three investigators from the head office of the agency in Washington, not the Philadelphia regional office that in the past has conducted the search into school records.

The requests for information in the past gave rise to unconcealed outrage by school officials and at one point moved Representative Marjorie S. Holt (R., 4th) to insert her own scathing remarks in the *Congressional Record*.

The latest move, however, has been met with more of a sense of curiosity. "I'm not sure what they're after," said C. Berry Carter, the assistant to the school system's superin[illegible] "We [illegible] thing was settled after the latest grant was approved."

A spokesman for the Office of Civil Rights yesterday said in a telephone interview that there is "no firm evidence" of discrimination in the 78,000-student school district, which was desegregated through busing last year.

"Just because there might be statistical differences in discipline doesn't necessarily mean there's been discrimination," the spokesman said.

The latest statistical accounts of discipline for major disciplinary problems, covering the 1972-1973 school year and the just-ended school year up to April 1, show that of the [illegible] students involved, 119 were black. This means that of the severest discipline problems, 31 per cent of the students involved were black. The school enrollment is 14 per cent black.

The difference is slightly smaller than that in New York city which, along with Baltimore and 18 other large cities, [illegible] Office of Civil Rights [illegible] congressional subcommittee on equal opportunities.

The disproportionate levels of student discipline involving blacks in these cities is seen as a "second generation" racial problem by government officials, the spokesman for the Office of Civil Rights said.

"It's not as simple as racial imbalance in schools," the spokesman said.

Attention to the problem was apparently stimulated by a report issued last fall by the Robert F. Kennedy Memorial Foundation, in Washington, and the Atlanta office of the Southern Regional Council [illegible] report, entitled "Student [illegible] Out," said minority students were being encouraged [illegible] school because they were punished more often and more severely than white students.

The spokesman said that [illegible] discriminatory problems [illegible] found in discipline in the [illegible] Arundel county school sys[illegible] "negotiations" of as-yet [illegible]

THE SUN
THURSDAY, JUNE 13, 1974

On the evening of the same day (June 13), the Baltimore Evening Sun also carried a story about the pending meeting, giving new details.

In this story, an HEW "spokesman" was quoted as saying the Anne Arundel visit would be used as a "pilot" for similar investigations elsewhere. The HEW source was quoted as saying "what's learned here will be applied across the country."

The Evening Sun story follows:

School Racism Meeting Set By HEW, Arundel

JUNE 13 1974

By Michael Hill

Annapolis—Three investigators from the Department of Health, Education and Welfare are scheduled to meet next week with Anne Arundel county school officials in another round of the year-old dispute over providing statistics on racism in school discipline.

The investigators are to meet with Edward J. Anderson, superintendent, and several other officials.

"I couldn't even begin to speculate right now on what they want," H. Lewis Alsobrook, a school planning officer who has been involved in the affair for some time, said of the visit.

Probe Confirmed

A spokesman for HEW confirmed that the investigators are on the way, but would not provide many details of what they are after. "We had a complaint over a year ago and it's never been fully resolved," the spokesman said.

In the past, the problems have been over discipline statistics requested by HEW which the school system refused to turn over, citing confidentiality regulations and prohibitive paperwork.

These [illegible] have held up federal aid. However a $761,000 grant received last week from HEW indicates that perhaps the last compromise worked out on the statistics hassle was successful. The HEW spokesman could neither confirm nor deny this.

"Pilot" Investigation

The spokesman did describe the Anne Arundel visit as a "pilot" investigation, indicating that what's learned here on the methods of investigating such difficulties will be applied across the country.

The question of racism in school discipline was described as a "second generation problem."

"The first generation is getting desegregation accomplished, then we have to look at what happens to the child after he gets in school," the spokesman said.

"In a school system the size of ours, anything can happen," Dr. Alsobrook said. "There probably is racism somewhere, but it is certainly not a practice of the school system.

"We'll just wait and see what they want. We'll do our best to work with them."

THE SUN
THURSDAY, JUNE 13, 1974

On Monday, June 17, Mr. Gerard's letter arrived in your office. It mentioned nothing about a "pilot" situation, but did indicate---for the first time from official sources---that other staff members would be accompanying Mr. Gerard on his visit. This is information the newspapers carried six days earlier.

A copy of Mr. Gerard's letter follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

JUN 13 1974

Dr. Edward J. Anderson
Superintendent of Schools
Anne Arundel County
188 Green Street
Annapolis, Maryland 21401

Dear Dr. Anderson:

This will confirm an appointment with you in your office at 1:30 p.m. June 19, 1974 as scheduled with your secretary on Tuesday, June 11.

The purpose of the meeting is to discuss the objectives and procedures of an inquiry by this office into alleged racial discrimination in the student disciplinary practices in the schools of Anne Arundel County.

Accompanying me will be Mr. Steven Spitz of our Office of General Counsel and Mr. Theodore Nixon, Equal Opportunity Specialist, Philadelphia Regional Office.

If you wish to discuss the purpose of the meeting beforehand, please call me at 202/245-6574.

Sincerely yours,

David Gerard

David Gerard
Program Coordinator
Elementary and Secondary
Education Division
Office for Civil Rights

cc: Director, Office for Civil Rights, Region III
Chief State School Officer

On Wednesday, June 19, The Evening Capital ran another story on the HEW meeting requested by Mr. Gerard. This story again describes the meeting as the "beginning of an intensive probe" and "the initial step in a nationwide investigation..."

In the article an HEW "spokesman" is quoted as saying the investigators are starting with Anne Arundel County "because we are already there."

The complete article follows:

In the schools

Discipline is probed

Investigators from the U.S. Office of Civil Rights are due in town today to begin an intensive probe of the handling of disciplinary matters in the Anne Arundel County school system.

A spokesman for the Civil Rights Office, which is housed within the Department of Health, Education and Welfare, said the county probe is the initial step in a nationwide investigation of possible racial bias by teachers and school administrators in imposing discipline.

The investigators are starting with Anne Arundel County schools; the spokesman said, "because we are already there."

The HEW investigation of school discipline here began last July after the Parents Association of Anne Arundel County, a group of black parents from the Annapolis area, filed a complaint alleging that school discipline was not imposed equally on white and black students.

Federal investigators from the HEW regional office in Philadelphia visited school officials on July 24 and 25, demanding students records from five schools in the Annapolis area.

A controversy over what form the records would take lasted through the fall until HEW officials finally agreed to accept an accounting of disciplinary incidents by race rather than student files.

The probe was further expanded when a second request for data was made Jan. 22 of this year. H.E.W. officials asked for three-year histories of more than 25,000 students at 34 schools, a 13-year history of coaching in the county and a listing of racially isolated classrooms.

A second controversy ensued, but school officials were able to work out another compromise with HEW officials who settled again for an accounting of incidents rather than student records.

The HEW spokesman would not say what stimulus other than the original complaint was behind the widening disciplinary probe.

He did note, however, that the new phase of the investigation beginning today will be "more comprehensive than has been done to date."

School Superintendent Edward J. Anderson has refused to comment on the matter since the announcement of the new probe.

EVENING CAPITAL
WEDNESDAY, JUNE 19, 1974

Photo by Tom Gordon

One of the problems with the Iowa tests, Crenson said, is that they are based on a so-called national standard and do not take into account the differences in educational programs of different states, different school districts, or even different schools.

He admitted that the teacher strike in the Baltimore City School District this year could significantly skew the results from Baltimore and pointed out that comparison of districts of differing make-ups, such as a rural and urban districts, is not valid.

"The use of any standardized test comes under some criticism," Crenson said. "But it is the best we have."

He said the state plans to present the data collected from the spring tests in the form of what schools in the State are in the top 25 per cent of scores and those in the bottom 25 per cent.

"The object is not simply of providing a report card on the school districts," he said. "We will try to determine why one school does well and another like it does less well."

Crenson said the department intends to include evaluation of other subjects in addition to testing reading writing and arithmetic with the Iowa battery of tests.

In the meantime, he said the Iowa tests will be given while the department looks at alternatives to them — including the development of its own set of examinations.

EVENING CAPITAL
THURSDAY, MAY 10, 1974

19a

page 12

That afternoon (June 19), at approximately 3:40 p.m., Ms. Hosler of The Evening Capital again contacted this office. She asked why the meeting with HEW, scheduled for that day, had not been held.

I told her only that we have "requested HEW to establish procedures with regard to how this matter is to be handled" and that in the absence of such procedures the meeting was postponed.

Ms. Hosler then moved into some specific areas of inquiry which, frankly, so surprised me that I decided to take shorthand notes for later reference.

A transcript of a portion of that conversation follows:

page 13

HOSLER: I understand one of the reasons the meeting was not held is because there is some very hostile feeling toward a certain person at OCR. Is that right?

WHITE: That's an interesting conjecture. Who could you mean?

HOSLER: Well...a Mr. Nixon, I believe.

WHITE: And where in the world did you get that idea?

HOSLER: (pause)...from the grapevine.

WHITE: That's quite a grapevine you've got there.

HOSLER: You mean it's true?

WHITE: I'm not going to comment on what some undisclosed source has told you. If your source wants to make a public statement, and be openly quoted, I'll be happy to give you a public response and also be quoted. Otherwise, I can only speak off the record, and you'll wind up with a story quoting two 'unidentified sources'.

HOSLER: Well, I guess that shoots that, because I can't quote him.

WHITE: I'll tell you what. Off the record, I'll tell you whether this information is true or not if you'll tell me where you got it.

HOSLER: (laughing) Oh, no. I couldn't do that. I've got to protect the confidentiality of my sources. But I'll tell you something else they said.

WHITE: Oh? What?

HOSLER: They told me why OCR was not more specific in their explanation of why they are coming here and what they are looking for.

WHITE: And why is that?

HOSLER: He said, 'We don't want the school system to be too prepared. Records would be lost, misplaced, or made unavailable.'

WHITE: Well, that's very interesting.

The conclusion I draw from this exchange is that Ms. Hosler apparently learned of your comments to OCR concerning Mr. Nixon. She may possibly know something of the context of your exchange of wires with HEW as well, judging from her rather knowledgable conversation with me.

In any case, Ms. Hosler apparently has a very good source, very well placed, and appears to have the inside track at every step along the way on this matter.

Bob White
Information and
Public Relations
Officer

February 27, 1975

Ms. Christine D. Ver Ploeg
Department of Justice
Washington, D.C. 20530

Dear Ms. Ver Ploeg:

In accordance with Judge Northrop's suggestion please call me so that we can arrange a meeting with our respective clients as soon as possible.

Very truly yours,

Thomas J. Wohlgemuth

TJW:mhw

COPY

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
JSP:CVP:baw
DJ 169-35-2

MAR 7 1975

Mr. Thomas J. Wohlgemuth
Smith and Wohlgemuth
190 Duke of Gloucester Street
Post Office Box 28
Annapolis, Maryland 21404

Dear Mr. Wohlgemuth:

Enclosed please find a copy of the Order which we believe is accordance with Judge Northrop's oral ruling of February 21, 1975. Could you please respond to this proposal by March 17, 1975 so that we can proceed with this matter without further delay? Unless I hear from you by that time I will assume that we are unable to reach agreement and I will forward a copy of this Order to Judge Northrop, requesting a meeting between us in his chambers.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By: Christine Ver Ploeg
CHRISTINE VER PLOEG
Attorney
Education Section

March 14, 1975

Ms. Christine D. Ver Ploeg
Department of Justice
Washington, D.C. 20530

Dear Ms. Ver Ploeg:

I have your recent letter together with a proposed Order.

I have not seen the transcript of the Judge's ruling on our respective Motions as yet. I do not believe it has been typed and left with the Judge for his review and editing.

I would suggest that any further discussion as to what Judge Northrop said at the hearing abide the receipt of the actual ruling as I believe this was the Judge's intention.

I might say the proposed Order is unacceptable in certain respects and your proposal is more strict than what the Office of Civil Rights has earlier agreed to do with the Board of Education.

To prevent any further misunderstanding as I believe you have had in the past with the Office of Civil Rights concerning what they have negotiated with the Board of Education, I would suggest that you contact Mr. Holmes' office and review, if necessary, the items of correspondence that have transpired between our clients.

Very truly yours,

Thomas J. Wohlgemuth

TJW:bdm

COPY

APR 13 1975

JSP:CVP:baw
DJ 169-35-2

Honorable Edward S. Northrop
United States District Court
Calvert and Fayette Streets
Baltimore, Maryland 21202

Dear Judge Northrop:

Enclosed please find a proposed order which we believe is consistent with your ruling of February 21, 1975. In drafting this order we have attempted to safeguard the rights of the Anne Arundel students and avoid undue inconvenience to school officials, while at the same time allowing the investigation by the Office for Civil Rights to proceed as required by law.

A phone conversation with Mr. Wohlgemuth on March 7, 1975 indicated that he will continue to refuse Department officials access to school records despite the ruling of February 21, 1975. On March 7, 1975 Mr. Wohlgemuth was sent a copy of the enclosed order and a letter requesting a definitive response to these proposals.

COPY

In a phone conversation of April 15, 1975, Mr. Wohlgemuth once again stated he could not agree to the tenor of this proposed order. It was agreed that we will each submit a proposed order for your consideration.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

By:

CHRISTINE VER PLOEG
Attorney
Education Section

COPY

- 4 -

LAW OFFICES
SMITH AND WOHLGEMUTH
190 DUKE OF GLOUCESTER STREET
POST OFFICE BOX 28
ANNAPOLIS, MD. 21404

MALCOLM B. SMITH
THOMAS J. WOHLGEMUTH
VINCENT A. MULIERI

TELEPHONE
ANNAPOLIS 263-2646
BALTIMORE 269-0446

April 22, 1975

Dr. Edward J. Anderson
Superintendent
Board of Education of Anne
Arundel County
Riva Road
Annapolis, Maryland 21401

Re: United States of America
vs. Board of Education of
Anne Arundel County
Civil No. N74-1270

Dear Dr. Anderson:

Enclosed herewith is a copy of the transcript in the above matter. Also enclosed are copies of my letters to Ms. Christine Ver Ploeg of February 27th and March 14th together with copies of her letters to me dated March 7th and April 15th.

Very truly yours,

Thomas J. Wohlgemuth

Thomas J. Wohlgemuth

TJW:mhw
Enclosures

Rec'd 4/23/75

CHAMBERS OF
EDWARD S. NORTHROP
CHIEF JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
BALTIMORE 21201

April 21, 1975

Ms. Christine D. Ver Ploeg
Attorney, Education Section
Civil Rights Division
United States Department of Justice
Washington, D. C. 20530

✓ Thomas J. Wohlgemuth, Esquire
190 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: United States of America v. Board of Education of Anne Arundel County, et al.
Civil Action No. N-74-1270

Madam and Sir:

I have at hand Ms. Ver Ploeg's letter of April 15, 1975, along with her proposed Order. I also received Mr. Wohlgemuth's letter dated April 17, 1975.

In accordance with Mr. Wohlgemuth's request, I shall expect him to submit his proposed Order no later than Wednesday, April 30, 1975.

However, in view of the apparent continuing differences between the parties and counsel in this case, I suggest that you arrange to meet with me on Tuesday, May 6, 1975 at 10:00 a.m., in my chambers, to finalize the Order which will be filed.

Sincerely yours,

Edward S. Northrop

Edward S. Northrop

ESN:pm

c.c. Court File

24. Push-Outs

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

memo

TO: State Investigating Committee

FROM: Thomas Rhoades

DATE: December 12, 1974

SUBJECT: The Push-Out Theory

COPY TO:

This information is in reply to your query concerning the finding: "There is no statistically significant ($p < .05$) difference in the rates or frequencies of withdrawal of black students who have been multiply suspended compared to whites. Thus the push-out theory seems to be without basis in the data." (p. 6, Report on an Investigation Into Suspensions In Anne Arundel County Schools).

The method of arriving at that conclusion is outlined below:

I. Data Collection

1. Each suspension offense as listed in the Central Office Log was key punched on IBM cards.

2. Cards were sorted into schools, race, sex, and alphabetized.

3. All cards for students suspended on two or more occasions were separated from student cards who were suspended on one occasion only.

4. A count of the cards mentioned in pt. 3 above revealed

   - 254 black students were suspended two or more times for a total of 686 suspensions

   - 407 white students were suspended two or more times for a total of 1,033 suspensions

5. A comparison was made of students who were suspended on two or more occasions (those mentioned previously) to every student who withdrew from Anne Arundel County schools during 1973-1974 (excluding death and transfer to a new school). This revealed that

   - 15 blacks who were suspended on 2 or more occasions withdrew

   - 34 whites who were suspended on 2 or more occasions withdrew

II. Data Analysis

1. Selection of Statistic: On the basis of the Dallas Court Case and upon the advice of Dr. Paul Games (Professor of Educational Psychology, The Pennsylvania State University; a nationally recognized statistical expert by the American Educational Research Association) a chi square test of independence was run.

2. Results:

(a) The raw calculations are enclosed for your study (please refer to pp. 502-517 of Games, Paul & Klare, George, Elementary Statistics Data Analysis for the Behavioral Sciences, McGraw-Hill, 1967 for explanations of statistic should there be any doubts as to its calculation).

The table would be:

	# who withdrew	# who did not withdraw	Totals
Black	15	239	254
White	34	373	407

(b) The obtained chi square was 1.3657 and the critical value was 3.84. Thus the hypotheses that there was a statistically significant difference in frequencies or rates of withdrawal was rejected.

Note: Calculations attached

TR/msb/wp

1. Choose alpha level of significance (α).
2. Look up χ_α^2 for $R - 1 \cdot C - 1$ degrees of freedom.
3. Enter the values of obtained *fo* in the table for your particular set of data. Sum these *fo* across rows to obtain the values of *RS*. Sum these *fo* down columns to obtain the values of *CS*. Sum the *RSs* to obtain *n*. Check *n* by summing the *CSs*.
4. Compute the value of $f_{ij}^2/(RS_i \cdot CS_j)$ for every cell in your table. RS_i is the row sum of the row containing the cell, and CS_j is the column sum of the column containing the cell. *Note:* Contrary to our usual rule of two decimal places, this value should be computed to at least four decimal places.
5. Sum these computed values across all cells. First sum across rows and enter beneath the *RS* values. Sum the *RS* column values to obtain the total. To check your addition, also sum down the columns and enter under the *CS* row. Sum across this row; the outcome should be identical with the previous total.
6. Subtract 1.0 from the total obtained in step 5, and multiply the remainder by *n*. The result is the computed value of chi squared.
7. Check whether you meet the requirement of all *Fe* greater than 5 by taking your smallest row sum and smallest column sum; multiply these two together and divide by *n*. If this value is greater than 5, you are okay—if not, see a statistician.
8. Compare the computed value of chi squared with χ_α^2. If it is larger, reject the hypothesis of statistical independence. To describe the degree of association between the dimensions, compute $\sqrt{\chi^2/[n \cdot (L - 1)]}$ where *L* is the smaller of *R* or *C*. If the computed value of chi squared is smaller than χ_α^2, retain the hypothesis of statistical independence.

Column variable

Row variable	*1*	*2*	*3*	*4*	*Row sums*
Row 1	f_{11} = 15 = .018078 $\frac{f_{11}^2}{RS_1 \cdot CS_1}$ = 225/12446 =	f_{12} = 239 = .367460 $\frac{f_{12}^2}{RS_1 \cdot CS_2}$ = 57121/155448 =	f_{13} = = $\frac{f_{13}^2}{RS_1 \cdot CS_3}$ = ——— =	f_{14} = = $\frac{f_{14}^2}{RS_1 \cdot CS_4}$ = ——— =	RS_1 = 254 .3855385
Row 2	f_{21} = 34 = .0579652 $\frac{f_{21}^2}{RS_2 \cdot CS_1}$ = 1156/19943 =	f_{22} = 373 = .558565 $\frac{f_{22}^2}{RS_2 \cdot CS_2}$ = 139129/249084 =	f_{23} = = $\frac{f_{23}^2}{RS_2 \cdot CS_3}$ = ——— =	f_{24} = = $\frac{f_{24}^2}{RS_2 \cdot CS_4}$ = ——— =	RS_2 = 407 .6165297
Row 3	f_{31} = = $\frac{f_{31}^2}{RS_3 \cdot CS_1}$ = ——— =	f_{32} = = $\frac{f_{32}^2}{RS_3 \cdot CS_2}$ = ——— =	f_{33} = = $\frac{f_{33}^2}{RS_3 \cdot CS_3}$ = ——— =	f_{34} = = $\frac{f_{34}^2}{RS_3 \cdot CS_4}$ = ——— =	RS_3 =
Row 4	f_{41} = = $\frac{f_{41}^2}{RS_4 \cdot CS_1}$ = ——— =	f_{42} = = $\frac{f_{42}^2}{RS_4 \cdot CS_2}$ = ——— =	f_{43} = = $\frac{f_{43}^2}{RS_4 \cdot CS_3}$ = ——— =	f_{44} = = $\frac{f_{44}^2}{RS_4 \cdot CS_4}$ = ——— =	RS_4 =
Column sums	CS_1 = 49 .0760432	CS_2 = 612 .9260252	CS_3 =	CS_4 =	*n* = 661 *Total* = 1.0020662

$df = R - 1 \cdot C - 1 =$ ____ $\cdot$ ____ $=$ ____ $\qquad \chi_\alpha^2 =$ 3.84

$\chi^2 = n \cdot \text{total} - 1 =$ (1.0020662)(661) = 1.3657

∴ The null hypothesis of statistical independence is ________

The chi-squared statistic is being computed by the formula $\chi^2 = n \cdot \left[\Sigma\left(\frac{f_{ij}^2}{RS_i \cdot CS_j}\right) - 1\right]$.

This formula is algebraically equal to the conventional formula $\Sigma[(f - F_e)^2/F_e]$ for the situation where the *Fe* are computed so as to be proportional (as in the text). This cookbook may not be used for other applications of the chi-squared statistic.

35. Disproportionality in Suspensions--What Does It Mean?

Comparison of Juvenile Crime Statistics in Anne Arundel County to the Public School's Suspension Statistics

A great deal of emphasis has been placed upon the high frequency of black students being suspended from the public schools. It is alleged that since the frequency of percent of black students in the school population is between 12 and 13%, that the frequency or percent of black suspensions should be 12 or 13% of all suspended students. [Note: in 1973-1974, 32% of all suspensions involved blacks].

This allegation has two flaws. First, inherent in the allegation is the statistical assumption that all children are precisely equal in all ways. As later discussion will show, this is not only fallacious it is ludicrious. Secondly, it assumes the school is causing the student behavior, rather than reacting to this behavior.

Let us now examine the first flaw. It is true that there are statistically more blacks suspended than would be statistically predicted from the black population. However, one of the assumptions underlying this statistical prediction is that each individual child must be equal in everyway: income, housing, intelligence, culture, etc. In effect each child is a die, and all the dice are precisely equal.

However, children are not dice! They do differ in a multiple of ways. For instance, in Anne Arundel County's analysis of data, one of the most important differences is intelligence. The average IQ for students suspended is 89, whereas the average county school IQ is 102. The IQ distribution for Anne Arundel County by race shows approximately 79.9% of black students with IQ of 99 or below, and 38.4% of white students with IQ's of 99 or below. Thus the population of students who are being suspended is not actually 13% black and 87% white at all, as enrollment data would indicate.

This examination of children both black and white involved in suspensions reveals that these children are more similar to one another than they are to their nonsuspended black and white counterparts. The problem appears a far more complex one than merely racial bias on the part of the schools.

Examining the second flaw, one finds arrest statistics computed by the Maryland State Police and Anne Arundel Police show similar "disproportionality" between races. It is postulated that (a) these arrest statistics would also not be unique to Anne Arundel County, and (b) conviction statistics by the courts would show similar racial "disproportionality".

The fact that school suspension statistics of juvenile and police arrest statistics are highly similar attests that the schools are reacting to behavior not causing it. These behaviors are not unique to the schools, but exist in the entire community. Just as the police are reacting to individual behavior so to are the schools. It is unfortunate and undesirable that the total sum of arrests or suspensions are racially disproportinate, but it is not necessarily unfair or unjust!

For your information the arrest statistics are included here presuming the juvenile population dealt with by the police is the same as the schools.

Police

	# Arrests	Population	% Population	% Of Arrests
Black	446	10,737	12	26
White	1241	75,461	88	74

School

	# Suspensions	Population	% Population	% Of Suspensions
Black	845	10,737	12	32
White	1794	75,461	88	68

Mr. ANDERSON. The press item is B-1 in the folder of information which you have, sir, by the way.

We met with Mr. Holmes as a result. Mr. Holmes and each of us was counseled, and we presented to Mr. Holmes some information which we considered that his office had released, and told him the process that he was using, or that his people were using, we would not tolerate.

Those are the kinds of words we used.

Senator BEALL. That was in June of 1974?

Mr. ANDERSON. Yes, sir, in Mr. Holmes' office.

At that time, Mr. Holmes and I agreed that each of us would assign a staff member who would work until such time as a set of guidelines [governing the investigation] could be developed which we could all work with.

I might say, as superintendent of schools of a large school system, I have been extremely concerned with dropouts, pushouts, and suspensions.

We have, over a long number of years, developed suspension and dropout data that are very sophisticated, at a very sophisticated level, far beyond anything ever asked of us.

It was this particular information which was published in newspapers which led to all of this. For instance, if we had not kept the records, I do not think we would be here.

Senator BEALL. Do you keep records that other systems do not keep?

Mr. ANDERSON. I believe we do, sir. I believe you will find we keep some of the most extensive records of this kind going, and the reason for that is to try to develop educational programs to meet the need of young people which are not being met in a normal school program.

The learning center was one of those developments, an attempt to resolve the problems of young people.

[Indicating huge green folder.]

This, by the way, is a printout. Mr. Holmes has this. There is no study that he wishes to do in terms of behavior, or anything else, which cannot be done from this. This is probably the most complete data that you will find.

Senator BEALL. Is this data relating to all schools in the system?

Mr. ANDERSON. Every school, right, sir.

In meeting with Mr. Holmes, I personally felt that if we could work with him—and I made this statement to Mr. Holmes in his office—we could perhaps develop some data which would be useful to us. We thought he could provide some manpower.

This is an expensive proposition [referring to huge green folder]. Unfortunately, we did not succeed in developing such documents.

Mr. Holmes rejected all of our efforts and sent his investigative team down, and he and I had several telephone conversations about this.

I did inform Mr. Holmes on the telephone that if any of his people did not proceed in a perfectly, completely objective and professional manner, we would declare the whole thing off. That is the reason we did it, sir.

As am example, at one of the meetings, one of Mr. Holmes' investigators made to our people a statement to the effect, "At what time did we apprehend and confine students in the learning center?"

That is certainly not an objective statement of a person doing an objective investigation.

Senator **Beall**. You had better define for the record what the learning center is.

Mr. **Anderson**. The learning center is an institution which came about as a result of a study, extensive study, of suspensions, behavior problems, which had taken place in 1966 and 1967.

We had extensive behavior problems in our schools. We had students we just could not accommodate in a regular school, and we felt that some way had to be found to help these young people. So our staff, after an extensive study, developed and presented to the board of education—and I believe it was in early 1969—a proposal that a center geared to behavior modification to which young people could go for a short period of time and then return to their regular school be established.

Senator **Beall**. Were these students who were disrupting the educational process?

Mr. **Anderson**. The criteria was that their behavior was so bad they could not be kept in a regular school. That was the criteria for it. It is the only criteria.

The center had in it between 80 to 115 youngsters at the time. By the way, the success rate of young people who go to the center, say for 3, 4, 5, or 6 months, and then return to regular school is extremely high, somewhere in the neighborhood of 70- to 80-percent success rate.

Almost every one of those young people would have been school dropouts or forced out of school because we could not contain them had it not been for the learning center. So, over the years, hundreds of young people have been brought back into the regular school as a result of this.

There has been some opposition obviously to the learning center, but it has been an institution of which we are proud. It has been recognized nationally, and similar institutions have cropped up all over the place since this was developed.

Senator **Beall**. Is this learning center used as a place to send children who would be suspended?

Mr. **Anderson**. It is an alternative to expulsion. Always yes, sir.

Senator **Beall**. This is something to keep them in the system?

Mr. **Anderson**. Yes, sir.

In terms of dealing with records and staff, we have absolutely nothing against Mr. Holmes' proposal as he made it again, but when meeting with us, his staff demanded complete and total access to every record in the learning center. They demanded to talk with staff, without staff having the protection of having a record of their conversations, or if staff wanted to have someone present, that was denied also.

We felt—and I think rightly so—that the Office of Civil Rights was at this time violating the rights of professional staff in our county, and as superintendent of schools, I believe, sir, you would agree that I had the obligation to assure that our people have a fair deal.

Senator **Beall**. In other words, they indicated to you when they queried staff in the learning center that would be done on their terms with nobody accompanying the staff member?

Mr. **Anderson**. That is correct. And no record of what took place.

Senator **Beall**. No written record of conversations?

Mr. **Anderson**. This is correct, sir.

Senator **Beall**. How did they make this?

Did they do this verbally or in writing?

Mr. **Anderson**. Both.

I think you will find it in their letter.

It had been our hope that guidelines would be developed——

Senator **Beall**. The reason I am asking the question is because the representatives of the OCR are all shaking their heads in the negative.

Mr. **Anderson**. They may, sir, if they wish—we have a number of people who have met with them. They rejected the guidelines which spelled that out also.

Our deputy superintendent is a man who keeps very careful notes, sir, and we have notes supporting everything we have sent.

Senator **Beall**. Will you put those in the record?

Mr. **Anderson**. I would be glad to.

In terms of the pilot project, Mr. Holmes wished to do, we wanted to do it so badly, sir, and I think we have done it.

You will find in your folder, B–3, a report on the discipline in public schools in Anne Arundel County. This is a research study which I believe is the most widespread research study ever conducted in this field having to do with problems we are dealing with.

I would like to have it placed in the record, sir, because we would consider this an extremely important piece of work.

[The study and report referred to follow:]

B3. In-house Report on an Investigation Into Suspensions

REPORT ON AN INVESTIGATION INTO SUSPENSIONS
IN
ANNE ARUNDEL COUNTY SCHOOLS

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Global Summary

ANY USE OF THESE SUMMARIES WITHOUT READING AND STUDYING THE FOLLOWING INFORMATION WOULD BE EXCEEDINGLY DANGEROUS. QUOTES OF THE MATERIAL WITHOUT AN UNDERSTANDING OF THE DATA FINDINGS WOULD BE REMISS, DANGEROUS, UNPROFESSIONAL --- AND UNFORTUNATELY WILL WITHOUT DOUBT BE DONE BY MANY.

1. A small minority of Anne Arundel County students (.71%) account for 45.5% of all suspensions.
2. Discrimination in suspension by race does not seem to be a factor, rather
3. Low ability students (e.g. low I.Q., reading levels, and having parents with below median education levels) receive the majority of suspensions
4. Blacks compose the majority of low ability students in the County and therefore there are more suspensions of blacks.
5. There is a very slight difference in the average length of suspensions of black students who are suspended one time only over white students who are suspended one time - the difference is 1.98 hours !
6. There are no significant differences in the average length of suspensions of black students who are suspended two or more times.

INTRODUCTION

This report attempts to summarize the findings of an investigation of the Anne Arundel County Suspension data. The report is based on data collected during the 1973-1974 school year. This report should not be considered as the concluding report. There are still several questions under investigation (See Questions).

This report cannot be considered laymen's reading material. The questions examined in analyzing the suspension data were complex, so too were their answers. In attempting to be as precise as possible a statistical language is used. This mode of presentation is the most suitable for presentation of the findings to other qualified evaluators because of its preciseness; yet the terminology is many times confusing to others.

SCOPE OF THE INVESTIGATION

The present investigation has examined many areas; only those areas that produced significant results are reported here. For a detailed account of each topic explored refer questions to the Coordinator of Research.

LIMITATIONS OF INVESTIGATION

1. These results and interpretations have been checked and verified by an outside statistical expert. (Dr. Paul Games, Acting Head, Department of Educational Psychology, The Pennsylvania State University)

2. School by school examinations were conducted in virtually every case among secondary schools only, with the exclusion of Northeast (error in their data reporting) and the Learning Center (an "atypical school"). This decision was based upon the fact that most suspensions are at the secondary level.

3. Some of the suspension data has keypunching and reporting errors (wrong sex, race, offense, etc.). It was assumed that these errors were small and random in comparison to the total data and would have no net effect. (Errors seem to have occurred in approximately 1% of 3,756 cards.) This occurred due to a failure to "verify" the deck during the 1973-1974 school year.

4. All of the statistical tests and conclusions in this report were based upon confidential reports from each principal to the deputy superintendent's log as kept by the head of pupil personnel. There has been no attempt at this point to check the validity of this log. That is, when a child is suspended during the year, the principal or a delegate specified by the principal calls the suspension into the head of pupil personnel where it is recorded into the deputy superintendent's log. This log may be verified if it is found necessary by checking the absences of all 86,198 students in Anne Arundel County for suspension codes and tallying them school by school to assure that there were no recording errors in school reports into the log.

5. This investigation itself raised further questions (see Questions and Recommendations).

GENERAL FINDINGS

There were throughout the school year at various times 10,737 black pupils and 75,461 white pupils. (This includes transfers, drops, etc.).

There were 2,639 students suspended during the 1973-1974 school year. This represents 2,639/86,198 = 3.1% of the students in the school district. Approximately 97% of the county's students were thus not involved in suspensions.

A) 845 black students were suspended (7.87% of the black student enrollment). Of those 845 students 254 students were suspended two or more times (2.37% of the black student enrollment).

* The 254 blacks were suspended on 686 occasions. The remaining 591 blacks were suspended on 592 occasions. Thus 2.37% of the black student population accounted for 53.7% of black suspensions.

B) 1,794 white students were suspended during 1973-1974 (2.38% of the white student enrollment). Of those 1,794 students 407 were suspended two or more times (0.54%).

* The 407 students were suspended on 1,033 occasions. The remaining 1,387 white students were suspended on 1,456 occasions. Thus 0.54% of the white student enrollment accounted for 41.4% of white student suspensions.

IN TOTAL .71% of the student body (black and white) accounted for 45.5% of all suspensions in Anne Arundel County Public Schools.

These findings strongly suggested three categories for investigation:

Category I: A series of statistical comparisons by race of multiple suspension offenders[1] within the various county schools and also the county in general.

Category II: A series of statistical comparisons by race of single suspension cases[2] within the various county schools, and also the county in general.

Category III: A comparison of every multiply suspended student in Anne Arundel County to every student who withdrew from the Anne Arundel County Schools in 1973-1974 school year.

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[1] Multiple suspension offenders are those students who committed two or more suspension offenses, where a suspension offense is an action committed by a student which led to a suspension from school. (Note: If a student were suspended 5 times for any number of reasons, there would be 5 suspension offenses listed and not one offense for one student).

[2] Individual suspension data refers to an analysis performed on data obtained by transforming the suspension data so that multiple suspensions do not appear. Thus only students who were suspended on one and only one occasion only appear in this analysis.

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* Totals differ slightly due to keypunch errors. (see Limitations)

FINDINGS FROM CATEGORY I (Students suspended 2 or more times)

1. There is a significantly higher frequency ($p < .05$)[3] of black students having multiple suspension offenses than frequency of white students having multiple suspensions.

   The phi coefficient (ø)[4] for this was 0.069.

2. Multiple black student suspension offenses occur significantly more frequently ($p < .05$) than multiple white student offenses in the following suspension categories.

3	"General Misbehavior"	ø = 0.0264
3A	"Disrespect to teacher"	ø = 0.0458
3C	"Talking back to teacher"	ø = 0.01
3D	"Throwing food in cafeteria"	ø = 0.02
3E	"Using foul language"	ø = 0.028
4	"Extreme Misconduct"	ø = 0.01
4A	"Making improper advances to female student"	ø = 0.017
4B	"Calling teacher names in class"	ø = 0.01
4D	"Consistently disrupting class and interferring with the learning of others	ø = 0.003
4F	"Failure to report to office when directed to do so"	ø = 0.003
5	"Striking a teacher"	ø = 0.024
6	"Threatening a teacher with bodily harm"	ø = 0.037
8	"Fighting"	ø = 0.066
9	"Smoking on school grounds"	ø = 0.00
10	"Tardy to school or classes"	ø = 0.039
12	"Destruction to school property"	ø = 0.005
13	"Refusing to serve detention"	ø = 0.043
14A	"Alcohol"	ø = 0.005
14B	"Drugs"	ø = 0.009
14C	"Other"	ø = 0.018

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[3] ($p < .05$) is the Type I or alpha level of significance. It states that the probability of this particular comparison occurring by chance is less than or equal to 5 times in 100.

[4] The phi coefficient (abbreviated ø) is a measure of the "degree of association" of two variables (a special case of the Pearson Product Moment coefficient of correlation). Its values range from -1 to +1 where in this case a -1 would indicate all white students suspended and no black students suspended. A +1 would indicate all black students suspended but no white students suspended. A 0.0 would indicate no difference at all in rate or black suspensions and white suspensions.

This statistical computation was suggested by Dr. Paul Games (statistical consultant). He pointed out that chi square tests are greatly influenced by sample size. Because our N = 86,198, every chi^2 would be highly significant regardless of how trivially small the relationship really was. Thus the ø was calculated to give an estimate of the "importance" of each finding.

One may legitimately interpret a ø = 0.069 as indicating that although "statistical significance" ($p < .05$) exists, it is only a weak trend in the data. The chi^2 is inflated by the size of the sample, the ø is not.

NOTE: Even though the chi^2 is significant notice how close the ø values are to 0.0

3. There is no significant difference in the average number of days suspension of black students over white students for those receiving multiple suspensions. (In fact, whites received slightly higher average days suspensions than blacks, although it was non-significant.)

4. The following schools are suspending black students at a frequency higher ($p < .05$) than white students.

Andover	1013	ø = .128
Glen Burnie	1033	ø = .020
Severna Park	2013	ø = .036
George Fox	2033	ø = .107
Severna Park Junior	2043	ø = .0539
Arnold Junior	2243	ø = .019
Arundel Senior	3013	ø = .10
Annapolis Senior	4013	ø = .062
Annapolis Junior	4033	ø = .255
Bates	4043	ø = .197

FINDINGS FROM CATEGORY II (Students suspended once only)

1. There is a significant higher frequency ($p < .05$) of black students who are suspended once than white students suspended once; ø = .077.

2. Single or individual black student suspension offenses occur more frequently ($p < .05$) than white student offenses in the following suspension categories:

1	Truancy	ø = .0082
2	Skipping classes	ø = .014
3	General misbehavior	ø = .026
3A	Disrespectful to teacher	ø = .046
3B	Not doing assigned work in class	ø = .02
3C	Talking back to teacher	ø = .01
3D	Throwing food in cafeteria	ø = .02
3E	Using foul language	ø = .028
4	Extreme misconduct	ø = .01
4A	Making improper advances to female student	ø = .017
4B	Calling teacher names in class	ø = .01
4C	Refusing to cooperate with school rules and regulations	ø = .049
4D	Constantly disrupting class and interferring with the learning of others	ø = .003
5	Striking a teacher	ø = .024
6	Threatening a teacher with bodily harm	ø = .037
7	Threatening a fellow student with bodily harm	ø = .05
8	Fighting	ø = .066
9	Smoking on school grounds	ø = 0
10	Tardy to school or classes	ø = .039
11	Theft	ø = .033
13	Refusing to serve detention	ø = .043
14A	Alcohol	ø = .00547
14B	Drugs	ø = .0095
14C	Other	ø = .018

3. The following schools are suspending black students at a frequency higher than they are suspending white students.

Glen Burnie Senior	1031	$\phi = .039$
Lindale Junior	1053	$\phi = .097$
Severna Park Senior	2013	$\phi = .049$
George Fox Junior	2033	$\phi = .089$
Severna Park Junior	2043	$\phi = .089$
Arnold Junior	2243	$\phi = .089$
Arundel Senior	3013	$\phi = .097$
Arundel Junior	3023	$\phi = .084$
MacArthur Junior	3033	$\phi = .046$
Annapolis Senior	4013	$\phi = .049$
Southern Senior	4023	$\phi = .047$
Annapolis Junior	4033	$\phi = .237$
Bates	4043	$\phi = .24$
Southern Junior	4053	$\phi = .107$

4. There is a significant difference in the average number of days suspension given black students who are suspended once over white students who are suspended once: where blacks are suspended for 3.56 days and whites are suspended for 3.23 days.

Two points need to be considered here:

1. Is a difference of .33 school days (equivalent to 1.98 hours) an indication of extensive discrimination.

2. There are strong differences in the number of black and white parents that come in for parental conferences after a student has been suspended. Although these differences cannot explain the difference in the average days suspension they help to cause such differences.

Note: A policy of the Board of Education requires that a parent contact the principal when a child is suspended. If the parent fails to contact the principal two things may occur - 1) the student may be forbidden to return to school until the parent confers with the principal, or 2) the student may be admitted. Alternatively, if the parent contacts the school immediately upon the student being suspended two things might occur: 1) the student may not serve any days suspension at all, or these days would likely end with the parental conference (thus if a student were suspended by the principal for a 5 day period, and the parent saw the principal on day 2, the student would likely only serve 2 days suspension rather than 5 or 2) the student may serve the full suspension period.

FINDINGS FROM CATEGORY III (Push-Out Theory)

There is no statistically significant ($p < .05$) difference in the rates or frequencies of withdrawal of black students who have been multiply suspended compared to whites. Thus the push-out theory seems to be without basis in the data.

FOLLOW-UP INVESTIGATIONS

The findings previously mentioned prompted three further inquiries:

1. An examination of the cumulative records of 440 students (220 whites, and 220 blacks) who were suspended in 1973-1974. The 440 students were selected randomly from all suspended students.

2. An investigation into 40 suspension cases and student [illegible] histories by pupil personnel. The 40 were picked randomly from all students suspended two or more times.

3. An examination of I.Q. distribution within each race, and an examination of suspensions within various I.Q. levels by race.

The purpose of these investigations was to determine if race was the underlying cause of the suspensions or if other factors were operating.

Findings from Investigation #1: 440 student records

Examination of the suspension categories in which black students were being suspended significantly more than white students seemed to indicate a pattern throughout all three areas of the previous investigations. Namely, that these offenses might be characteristic of a group of students who were: 1) below average in I.Q. ability, 2) below grade reading level, and 3) low in social economic status. Such a student might find the large in-class reading assignments typical of many high school - junior high school courses frustrating.

Examination of the sample suspension data yielded:

1. Black and white suspended students in the sample had a mean I.Q. that was significantly lower ($p < .05$) than the county school population.

I. Q.
Black suspended = 83
White suspended = 91
Mean suspended = 87
County = 102

It should be noted here that the black suspended and white suspended I.Q.'s did differ significantly ($p < .05$). However, they both also differed much more from the county average than from each other.

2. The suspended students were significantly worse in reading deficit[5] ($p < .05$) than other students in the county.

Mean Suspended	1.98 years
Mean county at grade 7 =	1.08
grade 9 =	1.33

It should be noted here that black and white reading deficits were not significantly different ($p < .05$).

3. A comparison of the number of years of father's education (or head of household) for suspended students to the median number of years father's education in Anne Arundel County (as established by U. S. Department of Census) indicated that the suspended sample was below the median.

Median Black suspended	10
Median White suspended	12
County	12.2

Note: More complex analyses on S. E. S. are precluded by:
1) Incomplete census data
2) Incomplete student sample data

Findings from Investigation #2: 40 suspend cases and student histories by pupil personnel

One way that may convey the information accumulated in the confidential files and research from pupil personnel is to give a few brief summaries and quotes without naming students.

Summaries:

... the 4th child in this family to drop out, 11 previous offenses before this suspension, I.Q. 72

... referred and admitted to Crownsville State Mental Institution, then returned to school and later suspended

... child needed special education in elementary school - but program was not available

... psychologist recommends the Learning Center

... student is diabetic, hyperactive according to Baltimore clinic
... student is top large to fit any desk in classroom, I.Q. 89
... student has had behavior problems since death of father
... student was arrested and arraigned in court and referred to school counselor
... student had over 100 discipline referrals
... parents are divorced, step father does not want child, grandmother in custody
... student placed in foster home, student referred to John Hopkins Mental Clinic

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[5] Reading deficit is the number of years below grade level a student is reading.

... student has many disciplinary referrals note made that he may need medication
... student diagnosed as learning disability since elementary school
... each child in family has a different proper name, student did not have enough clothes to attend school
... "____________ should have been referred to the Pupil Personnel Department a long time ago. His poor academic record indicates that some help was needed in this area. He really should have been referred while in elementary school. Perhaps an early diagnosis of his academic problems and placement in an appropriate educational program would have eliminated many of the problems school personnel are now confronted with."

In general:
1) many of the problems seem to occur in grades 3 through 5
2) it is difficult to tell if the student's home life can be remediated through the school
3) truancy is the major suspension instance and is completely unremediated by the suspension process
4) these students represent .71% of the school enrollment and account for 45.5% of suspensions.

Perhaps the best summary was provided in a memo from Elizabeth Simons reproduced here:

> "Since each of us had to "analyze" the suspensions, I feel it is important for us to express our viewpoint on the suspensions, at least in general terms. I realize there are always exceptions."
>
> "I feel suspensions serve only two purposes. First, for the "good kid" and concerned parent, it might serve as a deterrent against similar offenses and can possibly lead to better parent-child relationships even if there is a need for some type family counseling in order to bring this about."
>
> "Second, the "bad kid" and unconcerned parent, it gives teachers and administrators a brief respite from the poor behaviors, however, it does not solve nor change the child's behavior, nor, in general, does it get the parents involved."

Findings from Investigation #3: I.Q. distributions

The following data is based on August, 1974 computer tapes. Transfers, drops, withdrawals and senior graduates are not included in this data. The data is for secondary schools only.

CHART I - Secondary School Enrollment

I. Q	# of Blacks	# of Whites	Totals
* 00-85	1,548	2,849	4,397
86-99	1,673	7,087	8,760
100-115	635	10,365	11,000
116-200	177	5,572	5,749
Totals	4,033	25,873	

CHART II - % of race enrollment in I. Q. Levels

I. Q.	Blacks	Whites
00-99	79.9%	38.4%
100-200	20.1%	61.6%
Totals	100%	100%

1. 79.9% of the black enrollment has I. Q.'s in the range 00-99 (See Chart II)

2. 38.4% of the white enrollment has I. Q.'s in the range 00-99 (See Chart II)

*Recall that 45.5% of suspensions arise with students having a mean I. Q. of 87. Thus, one would expect far more black suspensions than white.

CHART III - % of Black-White enrollment in the I. Q. levels

I. Q.	Black	Whites	Totals
00-99	24.5%	75.5%	100%
100-200	5.0%	95%	100%

3. Black enrollment is around 12% to 13% of the school population. However, black enrollment is 24.5% of the total enrollment in the 00-99 I.Q. group (highest suspension group). Thus again one could not or should not expect a 12% black suspension rate.

---

* I. Q. of 00 means that no I. Q. score was available.

3. Race is but one characteristic of students. In the cognitive world which school represents, it is highly likely (and very likely in this situation) that race is not the important variate. Rather race is one characteristic just as sex - no more or less.

Question Still Under Investigation

An examination of the crime and arrest statistics for Anne Arundel County is being made in cooperation with the police. It is hypothesized that the crime rates and frequencies are in the same proportions as the school problems.

The HEW argument of racial discrimination may be used against the police or any organization for that matter. For instance, to determine if the local police are discriminating in whom they arrest, the HEW test would look like:

	persons arrested by police	proportion in the county covered by police
Blacks	.40	.10
Whites	.60	.90
	1.0	1.0

Similarily for the judge (should there be one) who may try any future court case, we could use the HEW arguments to see if he were 'racist'.

	persons convicted by judge	proportion in the county (state) district covered by judge
Blacks	.30	.10
Whites	.70	.90
	1.0	1.0

To argue that this data is sufficient to conclude that the judge or the police is a racist is absurd. Yet precisely this same kind of data was used to conclude that the Dallas School District was racist by HEW.

Summary and Interpretation of Sample Findings

It is undoubtedly true that *one* characteristic of suspended students is race. It appears, *however*, *untrue* that race is the *only* factor or the *most significant* factor. Consider the fact that these students are nearly 2 years below reading level in general. Thus during 1973-1974 1) they could not attend Vocational Technical schools in many, if not most cases, 2) they could not compete equally with their peers in most classrooms.

What behaviors would one then expect - tardiness, non-cooperation, misbehavior, etc.? Suspended students were to a large degree low ability, low achieving students.

In fact, a rather crude name analyses indicated that a minimum of 10% of all suspension offenses occur within the same proper name in a school. If one assumes that that is a fair judge of families, then many Anne Arundel County suspensions are traceable to certain families - again an S. E. S. ability effect.

It seems fairer to say that the Anne Arundel County Schools have "failed" a certain sub-population of children (low ability) rather than that they have discriminated against children by race. Even should this be true, a question needs to be answered:

1. Why are more blacks suspended than whites?

The answer appears to be that in Anne Arundel County more blacks fall into the described (e.g. low ability, high reading deficit, low S. E. S.) group than whites - this seems a fair characterization of a largely surburban area. However, this question can be pursued further through the department of census.

It is most important to remember three things:

1. The number of suspended students (3.1%) is exceedingly small compared to the population served. Further 0.71% of our student body accounts for over 41% of our suspensions. This very very small population represents a small hard core group of offenders that are difficult for *all* institutions to handle.

Widespread individual and institutional attention concerning this group is evidenced by the 1974 Gallup Poll of education and recent police reports. The Gallup Poll indicates that discipline is the leading matter of parental concern regarding the school (with parents demanding stronger discipline). Further, Baltimore police authorities report that the majority of crime is perpetrated by juveniles. Similar patterns may be true in Anne Arundel County (see Marley Report). If the school is to be held educationally responsible for these students, then the school must also be free to deal with them.

2. If Anne Arundel County would have had no statistically significant differences in black - white suspension rates, one would *not* be justified in saying discrimination did not exist. Similarly, just because Anne Arundel County did have statistically significant differences in black - white suspension rates, one may *not* conclude discrimination exists.

Statistical significance or statistical nonsignificance in *no* way can imply justice or lack of justice, discrimination, or lack of discrimination! It can only mean something occurs more than chance, period.

Recommendations

1. A conference should be convened to consider the plight of low ability students, and how Anne Arundel County's Curriculum can be made functional for them. - see Marley Project - Appendix I.

   Note: An independent group of researchers at Marley Junior High School have formulated a government grant proposal - "The Marley Project". This work based on the case study approach rather than statistical approach is significantly similar to the report by the Coordinator of Research. It appears that this further confirms the description of many suspended students as "deprived" - low S. E. S., I. Q., reading level, etc.

2. A committee should be established to review present suspension policies with respect to:

   1) How many times may a student be multiply suspended
   2) What type counseling should be provided multiple suspension students
   3) How can the issue of parental conferences be arranged so as to not penalize a student whose parents are apathetic
   4) What alternatives are there to suspension
   5) How may the number of non-serious suspensions be reduced - e.g. smoking
   6) Truancy as a suspension category should be abandoned, since it further reinforces the exact trait that is to cure! It would seem far better to force truants to make up all time under careful supervised study after school - or have them withdraw until the time when they are mature enough to participate in school.
      Similar action should be taken with tardiness.
   7) Steps must be taken to make all parties responsible for the orderly and accurate reporting of suspensions to the central office staff.

APPENDIX I

SUSPENSIONS IN SECONDARY SCHOOLS

YEAR: 1971-72

REASON FOR SUSPENSION		NUMBER OF SUSPENSIONS
1.	Truancy	297
2.	Skipping Classes	238
3.	General Misbehavior:	656
	a. Disrespectful to teacher	178
	b. Not doing assigned work in class	15
	c. Talking back to teacher	---
	d. Throwing food in cafeteria	20
	e. Using foul language	117
4.	Extreme Misconduct:	
	a. Making improper advances to female student	8
	b. Calling teacher names in class	6
	c. Refusing to cooperate with school rules & regulations	136
	Leaving school grounds without permission	41
	d. Constantly disrupting class & interfering with learning of others	224
	e. Excessive absenteeism - refusing to attend school regularly	24
	f. Failure to report to office when directed to do so	202
5.	Striking a teacher	17
6.	Threatening a teacher with bodily harm	47
7.	Threatening a fellow student with bodily harm and assault	123
8.	Fighting	526
9.	Smoking on school grounds	498
10.	Tardy to school or classes	79
11.	Theft	69
12.	Destruction to school property	20
13.	Refusing to serve detention	302
14.	a. Alcohol	
	b. Drugs	
	c. Other	181

TOTAL 4,024

Suspensions 1971 - 72	**4,024**
A.A. County Learning Center	**226**
TOTAL	**4,250**

APPENDIX II

EXHIBIT 7C

THE MARLEY JUNIOR HIGH SCHOOL WORK-STUDY EXPERIMENT AN ALTERNATIVE TO SUSPENSION AND SCHOOL FAILURE

PRESENTED TO

THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION
3 JULY 1974

BY

MR. THOMAS PENDLETON, PRINCIPAL, MARLEY JUNIOR HIGH SCHOOL
MRS. EUNICE MILLER, PRINCIPAL, MARLEY GLEN SCHOOL
MRS. LAVERNA HALL, PRINCIPAL, MARLEY ELEMENTARY SCHOOL
MR. HAL ROTH, COORDINATOR, AREA I
MISS MARY MCGEEHAN, COUNSELOR, MARLEY JUNIOR HIGH SCHOOL
MR. JOHN ANDERSON, PUPIL PERSONNEL WORKER, AREA I
MR. JAMES LAGATTUTA, SCHOOL PSYCHOLOGIST, AREA I

SUMMARY OF THE PROJECT

A fortuitous coincidence of circumstances brought about the climate out of which the "work-study" program at Marley Jr. developed:

- the need of Marley Jr. to find alternatives to suspension as a method of behavior change;
- the need of Central Office, as expressed in the formation of various committees, for its personnel to develop alternative and preventive programs in light of the statistics on suspensions and the drop-out rate;
- the needs of Marley Glen and Marley Elementary for a pool of young, enthusiastic tutors who could relate to and become personally involved with the needs of their students (cf. Appendix I for descriptions of the work performed);
- the needs of the junior high students for self- and public awareness of their talents and sensitivity to the needs of others;
- the campus-like proximity of the three schools;
- and, the willingness of the principals and support personnel to try something new in the face of possible prejudices.

Unlike many release-time programs, only students whose behavior indicated that they were not adjusting to the junior high environment and might eventually drop out of school were considered for the program. The initial selection of the students for the project is described by Miss McGeehan, Counselor(and, in essence, coordinator of the program), in Appendix II. The addition of more students was a matter of consultation with various personnel and the need to control the size of the group since the program was an addition to everyone's regular responsibilities. Furthermore, it was recognized that, given the needs of the junior high students, the key to success would be "personalization":

- the coordinator at the junior high had to be available when they needed her, e.g., when they came back from the schools and needed to chat about their successes or confusions, when there was a need to intercede due to communication problems or in-house difficulties, when there was a need to "nudge" a youngster to insure his success;
- likewise, the principals of the two host schools were to create an atmosphere of trust and personal responsibility for the students and were to be available for chats and encouragement whenever they were in the building.

Assessing the results in terms of numbers and graphs of a service experience such as the present one is difficult. One method is to examine changes in academic and attendance performances (cf. Appendix IIIa). There were several dramatic changes in the measured performances of several of the students (Nos. 8, 9, 13, 14, 16), more gradual changes for others (Nos. 14, 21), and mixed results for the rest. With dramatic highs one can expect dramatic lows to follow (e.g. Nos. 13, 22). Attendance for non-work-study classes did not show consistant upward trends.

In contrast, both the quality of performance and attendance patterns are reflected in the high grades received for the work-study aspect of the program. These grades were based on objective ratings by the host schools' teachers and staff following the form (#3) found in Appendix IV - they were not gifts.

Of the 36 who were enrolled in the program at one point or another, 22 were presented certificates of achievement for being on the program at the close of the school term. Appendix IIIb discusses the reasons why several students either asked to be removed or were removed from the program; either the program temporarily met their needs or their needs were greater than the satisfaction to be found in the program.

Another measure of the programs success might be found in the spontaneous reflections of the students who participated. Such reflections are typified in the reflective letter found in Appendix V. Themes of respect breeding respect, trust breeding trust, expecting responsibility breeding a greater sense of responsibility reflect the spirit of a program which was conceived to enable young adolescents to plumb the depths of their self-image and to discover, via service to others, their own positive qualities. Hopefully, through the give and take of being tutors of children with problems or teacher aide responsibilities, these positive feelings will be generalized to other situations and be reflected in regular school programs. The research of behavioral and dynamic psychology is helpful in explaining why the behavioral changes may remain situation-specific.

Each year, over a period of four years, a study has been made of the grade 9 class at Karley Jr., averaging 435 students. The study was conducted by the grade 9 counselor using individual student records to compile data on the class as a whole, in order to establish priorities for the new school term. Each year roughly 40% of the students fell under the guidelines specified by HEW (1969) for the classification of "Disadvantaged Youth." When the students were given a check sheet, using the same items as listed on the permanent record card, the correlation between how the students saw themselves (self-image) and what their records revealed were almost identical. The students at Karley Jr. are non-professionally oriented which is reflected, among other facts, in their choice of courses:

73 are in French I (mortality rate approximately 15%)
28 are in Biology (mortality rate approximately 1%)
29 are in Geometry (mortality rate approximately 1%)
99 are in Algebra I (mortality rate approximately 35%).

From the initial success of the work-study project and various other data it would appear that the needs at Marley Jr. are for more work-study type programs, more career oriented programs as alternatives to the more professional, college oriented courses which predominate and as environmental changes which might reduce absenteeism, truancy, behavioral problems, and the drop-out rate.

It has been recommended by the personnel responsible for the program that the Board consider funding the appointment of a permanent work-study coordinator at Marley Jr. The basic reason for this request is to allow the present program to expand while keeping the philosophy of immediacy and personalization, i.e., constant access to a particular junior high school person who would be immediately available to help the students reflect on their experiences, intervene on their behalf when necessary and, in a spirit of trust, challenge their thoughts on social responsibility. The coordinator could expand the program developing other community work-study resources to meet the needs of various students as well as be responsible for the drug study program which is currently being contemplated. Nonetheless, in lieu of the materialization of this position, the attempt will be made to refine the program at its current scale and to reevaluate priorities.

APPENDIX I

JOB DESCRIPTION: These descriptions are accounts of what the boys were assigned to do and what they wrote up as _their_ job descriptions.

Marley Glen Special School---

Help put puzzles together.

Help four year olds climb the bars, go up the mountain, run, and work out on trampoline.

Aid physical education teacher with groups.

Help in exercising muscles of poorly coordinated children.

Exercise crippled children on bikes.

Work in Shop helping around area of tools and sharp instruments so youngsters can't hurt themselves.

Help make candles and other projects.

Teaching children to speak.

Tutoring in Reading.

Teaching the alphabet.

Help in group sing a-longs.

Marley Elementary School---

Math Tutor - Groups or individuals
English Tutor - Groups or individuals
Reading Tutor - Groups or Individuals

Aid to Art teacher: to encourage those who cannot do as well as others.

Run office equipment. Teachers leave work to be run off. Boys take it, run it off, return it to proper boxes. They have learned to operate every piece of office equipment.

Assist on field trips.

Grade papers.

Do bulletin boards.

Work with overhead projector on special projects.

APPENDIX II

THE PROGRAM

SELECTION OF CANDIDATES

The first group of students accepted for the program came out of five "social encounter" groups which had been meeting on a regularly scheduled basis with the ninth grade counselor since the third week of school.

Each group consisted of five male members whose ages ran from fourteen to sixteen. Each member had been referred by the administration or by a member of the teaching staff, or by the school psychologist as: "being unable to be contained in a regular classroom setting due to anti-social behavior".

All of the members had evidenced severe behavioral problems since their entry into junior high school, and had been known to the staff for a period of at least two years.

Of the twenty five students, twenty were in grade 9, and five were in grade 8.

The group was classified as "chronically agressive" which means they were involved in:

1. frequent fighting
2. constant rebellion against all rules and regulations.
3. refusing to accede to adult demands
4. constantly irritating others

They were students to whom punishment was ineffective, and to whom adults and "outsiders" were viewed with suspicion and little tolerance.

They were students who had frequent brushes with the law, and whose offenses ran the gamut from forgery, to extreme degrees of vandalism, to alcohol and drug abuse, to theft, and to the physical abuse of other persons.

All of these students knew how to manipulate their environment. To their parents and other adult authoritarian figures they offered a passive aggressiveness in which exterior rebellion gave way to an expertly developed technique lying.

In each meeting with the boys we began to develop, in the fifty minutes we had together, some cohesion as a group whose goal was to turn at least 1° with each meeting.

Our initial contact was through a pass in the homeroom teacher's mailbox, which told the students the day and the time of each meeting.

By the end of the third week passes were no longer necessary. The boys came. They knew their day; they knew that the day and the time were fixed and unchangeable. Despite the fact that they were absent from school two and three days out of each week, they made it a point to be here on group day.

This was a sign, at least to me, that they were getting what they needed most:

1. Someone who had the time for them.
2. Someone who would listen.
3. Someone who was willing to accept them as they were and who would help them work out their problems.

4. Someone who would "plea bargain" for them when necessary, and most of all, someone who liked them, and who believed in them.

The prime target in leading the groups was toward social acceptance and how to achieve it. The prime effort was to come around 90° 180° although no one was discounting the fact that 360° 180° was an achievement not beyond the realm of possibility.

To put our foot on, at least, the first rung of the ladder and to motivate the boys to change, a way had to be found in which each could be quickly "reinstated" in the world in which he lived; in school; in the community, or in the home.

We began by trying to find ways of rebuilding the poor or almost non-existent self-image that most of the boys had. There was little left in them that they personally liked. They had known little in their lives other than the destructive forces of humiliation, defeat, and the dehumanizing experiences that had been developing over a lifetime.

It became obvious quite quickly that the group action and interaction was therapeutic for the boys but, in time it would not be enough. They had discovered things about themselves they had not known before; they learned things about others they had not known before, but it was evident that only good, solid, self-awareness experiences would be the answer.

On December 11, 1973, ten of the boys went out to "teach". They had read the "contracts" we had drawn up for them; they knew the conditions under which they began the program and the conditions under which they would stay on the program.

They knew that the children with whom they would be working at Marley Glen would be "different" from themselves. At the Glen they would be working with handicapped retarded under the direction of Mrs. Eunice Miller, principal.

At Marley Elementary School, under the direction of Mrs. Laverna Hall, they would be working with children, who like themselves labored under behavioral as well as academic difficulties.

We had told them that once they accepted the responsibility to teach others, they stopped being boys....,they were men.

The day the boys went out for the first time they came to show the counselors the new look. We had not asked anything special of them by way of dress, in hopes that they would rise to the occasion without our prompting them. They were clean and scrubbed; one had a coat and tie; they had hair cuts, security badges were in place and off they went to "teach". The Irish would say, "they were a grand sight"..., and they were.

Responsibility changed them. They accepted the terms under which they would work, the responsibility for the children with whom they would work, the direction of those who would teach them to teach, and the majority have been very successful.

By the middle of January we had added ten more boys and have been adding both boys and girls ever since. We have had a total of thirty-three on the program.

APPENDIX IIIa

ANALYSIS OF THE EXPERIMENT

In order to protect the identity of the students involved, each has been assigned a number. For both Appendix IIIa and IIIb, the grades represent the first, third, and fourth marking periods (1973-1974). The numbers following each letter grade represents the days absent from that specific class for the marking period; it does not mean absent from school, for a student may have been in the health room, with the psychologist or pupil personnel worker, in guidance, on a field trip, or hooking that specific class, and so on. The vertical line represents the point at which the student entered the program.

THOSE WHO STAYED ON THE PROGRAM

STUDENT	PROBLEM	GRADES			JOB DESCRIPTION
No. 6 IQ 102	Failing academically. Habitual truancy. Anti-social behavior. Potential drop-out. O-Self image.	English - C14 Soc.St. - C12 Math. - All Work Study Began Work Study	A8 C9 C18 A+	E21 E36 E35 A	Runs every type of office equipment. Teachers leave work assignment. He runs off and distributes materials; operates opaque projectors and audio-visual projectors. Highly thought of in his school.
No. 8 IQ 100	Had begun to show signs of severe dissatisfaction with school - Truancy. Potential drop-out. Lacked motivation of any kind.	English - B1 Soc.St. - C4 Science - B4 Math. - B1 Work Study Honor Roll Student	C7 95 C7 A5 A	C3 C0 A10 D5 A	Aid to Art Teacher. Distributes materials, and talks to students as a means of encouraging and motivating them. Staples materials and prepares materials for next class. (3rd grade boys print little notes to her saying that they love her, and miss her when she is not there.) Student is capable of handling classes on her own. Will go to Voc. Tech. next year in pre-nursing.
No. 9 IQ 94	Anti-social behavior. On the brink of academic failure. Pattern of truancy developing. Lacked motivation.	English - D5 Science - D10 Math. - C5 Art - C4 Work Study	D3 36 33 3 A	B15 C15 C15 C4 A	Tutor in all subjects. Works with handicapped. Likes to work with youngsters who are poorly-coordinated; exercises them on trampoline, on bikes, on climbing exercises. Very excited about his job.
No. 12 IQ 87	Complete lack of motivation. Academic failure. Poor self-image. Pattern of truancy. Repeating Grade 7 after failing summer school.	English - C2 Soc.St. - D2 Science - E2 Work Study	B2 C7 B7 A	D13 B19 E13 A	Tutors in all subjects. Designs bulletin boards.

STUDENT	PROBLEM	GRADES			JOB DESCRIPTION
No. 13 IQ 70	Lacked motivation. Potential drop-out. Behavior problem.	English - C9 Soc. St.- D7 Math. - E11 Work Study Honor Roll Student	A5 A12 B11 A	E15 E23 E27 A	Tutors in all subjects. Is working with very difficult children on a one-to-one basis. Has been very successful. He says-;"When ______ is very good I take him outside as a reward".
No. 14 IQ 118	Could not stand a full day in school.	English - B5 Reading - C5 Soc. St.- B2 Science - C2 Work Study Honor Roll Student	B4 B3 B4 B4 A	A18 A8 C18 A	Tutors in all subjects.
No. 15 IQ 89	Had spent 3 years in grade 7. Everyone "thought" he was indifferent and apathotic. Student was put in Grade 8 at the same time he went on Work Study.	English - E11 Science - D13 Math. - D15 Work Study Student had been hospitalized	A0 A0 D0 A	B7 E7 E14 A	Tutors in all subjects. Is highly respected by those with whom he works.
No. 16 IQ 80	Failure possibility. Becoming severe behavior problem.	English - C3 Soc. St.- E8 Science - D8 Work Study	A2 B2 D2 A+		Does anything he is asked to do. Works with handicapped students and is highly successful.
No. 18 IQ 116	Becoming a severe discipline problem. Potential drop-out. Truancy.	English - C3 Science - E5 Math. - B5 Art - B3 Work Study Student had pneumonia.	B13 E13 B13 C3 A	C8 E8 C8 C1 A	Works on a one-to-one basis with problem children. Tutors in Math. and Reading. Makes maps showing children where they live, and names of streets in relation to where they attend school.
No. 20 IQ 78	Potential Drop-out. Nothing made sense to him. Constantly in trouble.	English - D12 Soc. St.- D12 Math. - B9 Work Study	D12 C16 D12 A+	E24 D24 E9 A+	Has been the most successful boy in the program. Works with handicapped students and has been fantastic in his work.

STUDENT	PROBLEM	GRADES			JOB DESCRIPTION
No. 21 IQ 117	Lost interest in school. Potential Drop-out. In trouble with adm. and teaching staff.	English - B4 Reading - C1 Soc.St. - E12 Math. - C4 Work Study	D16 D5 C5 B5 B+	E12 B2 A12	Tutors in all subjects. Very reliable. Is chosen for field trips.
No. 22 IQ 76	Serious discipline problem.	English - A2 Soc. St.- C2 Science - D2 Math. - B3 Work Study Honor Roll	A6 C7 C6 B6 A+	D36 E27 E34 C34	Tutors in all subjects. Likes working in shop with handicapped.
No. 23 IQ 98	Potential Drop-out. Truant. Serious discipline problem.	English - C11 Civics - D13 Math. - A8 Work Study	A11 D12 B17 A+	A10 D17 E15 A	Works with handicapped. Exercises children. Tutors. Willing to do anything he is asked. Has been highly successful on job.
No. 26 IQ 97	Potential Drop-out. Truant. Behavior porblem. Lacked motivation. Grade 8 Student placed in Grade 9 English for remainder of year.	English - E8 Soc.St. - C8 Science - C2 Math. - D3 Work Study	C2 C2 C4 C2 A	C10 D10 D8 D16 A	Works in shop with handicapped students. Loves Arts and Crafts.

Mr. **Anderson**. From this study we are trying to provide additional programs to meet the needs of our young people. This is where we are.

Senator **Beall**. When was this completed?

Mr. **Anderson**. This was just recently completed, sir. It came from the data which has been supplied to the office of civil rights.

Senator **Beall**. Did HEW prepare information from this data?

Mr. **Anderson**. They could take this data and prepare the same information.

Senator **Beall**. You say HEW has this information?

Mr. **Anderson**. They do not have a copy of this, sir [indicating].

Senator **Beall**. But they have the basic data?

Mr. **Anderson**. They have the raw data.

Senator **Beall**. In that green binder you pointed to?

They are shaking their heads again.

They say they do not have this.

Mr. **Anderson**. I am told they do not have this green folder. Wait.

This has every student by name in it. In the other, the names have been removed.

Senator **Beall**. That is the only difference, that the names have been removed?

Mr. **Anderson**. Correct, sir.

Senator **Beall**. You are ready to give that information with the names removed if they do not already have this?

Mr. **Anderson**. Yes, sir. And we are also willing to supply them with the study itself, which we consider to be an important work.

Senator **Beall**. What percentage of the student body has been disciplined or suspended?

Mr. **Rhoades**. Senator, about 3 percent of 80,000 students have been involved in discipline; that is, suspensions. Of that 3 percent we are talking about, 0.7 percent generate 45.5 percent of all discipline cases in the system.

Approximately 661 students out of the student body of the whole school system of—I believe last year 80,000 and some-10,700 blacks.

We are talking again about 661 students out of 75,000 whites, 10,737 blacks.

These 661 students are the 0.7 which generate 46 percent of all suspensions. The rest are suspended once, you never see them again, they are good boys or girls after that.

Senator **Beall**. Thank you. Would you proceed?

Mr. **Anderson**. I would like to go back to what I think is where most of our problems began.

As you know, this Nation went through a very difficult period in the 1960's of disruptions in schools throughout the Nation. We had a disruption in one of our schools, Annapolis High School. The date, I believe, was 1970, as I recall.

By the way, the organized riot was not unexpected, sir, as the information had been provided to us over a period of time that there would be a riot; that there were meetings of adults and students planning such a riot, and it would take place; unfortunately, it did take place.

I would like to read to you part of a student's folder taken from a classroom folder, if I may. This has never before been put into the public record. I would say, sir, we would not want to disclose the names of any of the people involved, but this is to show how seriously and how carefully some people have organized for destructions in our public school system.

This document came from a student folder in a classroom which was used for classroom instructions:

> Training session. The following may be considered rules for confrontation.
>
> 1. Don't ever become isolated. (a) Once you become isolated, you become ineffective.
>
> (b) Going to jail is a form of isolation. Do not place yourself in jeopardy unless it is necessary for the cause.
>
> 2. Keep close together.
>
> (a) In approaching the area of confrontation, stay close to others; touch.
>
> (b) Keeping close is important in two ways, (1) you can feel the vibration in the other person. It builds morale. This is the whole psychology of a football or war game. (2) Leaders can whisper in short time without divulging what they are saying to the opposition. (3) Listen.
>
> (a) Listen to your spokesman as he speaks. Block out all else. Think.
>
> (b) (b is a repeat of the same.)
>
> 4. Be serious. If you appear serious, you have a better chance of being taken seriously.
>
> (b) There will be no laughing or fooling around. If you can't be serious, then you shouldn't participate.
>
> 5. Don't eat until after the confrontation is over.
>
> (a) Fasting from the night before the confrontation will keep your body and mind ready to meet whatever happens.
>
> (b) If your body is satisfied, you will not be strong enough to stand up against opposition.
>
> 6. Do not tell the press anything about a formal student organization.
>
> (a) You were just a concerned student.
>
> (b) You want to see some changes occur at your school.
>
> 7. Physical appearance. Dress as you would on any regular school day. Don't attract undue attention.
>
> 8. If you decide to sit in at the meeting, you must be prepared to be arrested.
>
> (a) Do not go anywhere until the policeman says you are under arrest.
>
> (b) Do not go any place until the policeman tells you why you are under arrest.
>
> 9. If you decide not to go after being told to leave, you must be prepared for discomfort.
>
> (a) Protect yourself at all times.
>
> (b) Do not find fault.
>
> (c) Do not give police any reason to physically assault you.
>
> (d) You will be protected by a lawyer.

This system of confrontation has been used in our schools, sir. It has not been an accident.

You can be sure we took very strong measures against such activities—we continue to do so—as a result of this.

We have developed in Anne Arundel County a process of dealing with confrontation which has been adopted throughout the Nation in school systems such as ours. We did have prior notice of that particular confrontation.

As a summary statement, I do not think anyone in this room needs to be told that the citizens in this Nation are fed-up with disorder in our schools. I do not think anyone needs to be told that our schools in some cases are virtually jungles. Students are attacked in corridors. Students, in some of our schools, cannot even be alone in school without being attacked by organized groups, by both students in school and people from outside of school.

Many of our parents are frightened to send their children to school, and I do not blame them one bit in some of our schools.

I would have to say to you that some of the activities which have come into our county, the office of civil rights has instigated. Seldom a day passes that someone does not threaten us with going to HEW. We provide them with a telephone to call.

So I would have to say, Senator, that this is an extremely serious matter. It is our sincere hope that a set of guidelines will be established which will determine how those people who go out and conduct investigations will conduct their affairs.

It is not Mr. Holmes and policies of his office that is the problem. It is the people in the field who conduct the investigations.

Senator BEALL. So you are suggesting that the real breakdown in the relationship which you have had with HEW have come about as a result of people working in Anne Arundel County and not as a result of any conversation with Holmes.

Are you saying that things have been agreed to in conversation with the head of the department but you have not been able to proceed with the implementation of these agreements that may have been reached?

Mr. ANDERSON. This would be correct, sir.

At the last meeting which we had in our office, the statement was made, "We have the right at any time in working hours to come into your school system and get any information you have and get anything we want."

I suggest to you, Senator, if I had that authority, I could control every school in this country without any question of a doubt.

Senator BEALL. It is your contention, of course, that you cooperated with HEW?

Mr. ANDERSON. Yes, sir. As a matter of fact, I believe that the Office of Civil Rights does have the obligation to investigate the discriminatory practices. My argument is the process.

Senator BEALL. At one point we suggested that a particular school be investigated. Do you object to that kind of procedure?

Mr. ANDERSON. I do not object to every school in the county being investigated if the procedures to do it are proper.

In other words, the question of confidentiality of student records is an extremely important one. We have great numbers of parents who are saying to us, "Under no condition is anyone to have the records of my students without my knowledge."

Since the passage of the Buckley amendment, I would say that people more and more are sensitive to this.

Mr. Holmes has stated here today that there would be provision for anyone he interviewed to have a record as that person wished. I have been so concerned about the image of Anne Arundel County and the public press which came initially from Mr. Holmes' office in terms of charges of discriminatory practice. He may deny this, but this is the way it appeared in the press.

This led me to the point where I said under no conditions would we take this any longer.

I asked the Government and the board of education by unanimous vote requested from the State board of education that a team be sent out to investigate.

That team came out. They established a set of rules and priorities, and if Mr. Holmes' staff will do the same, we will have no question whatever about their being in the system.

Senator BEALL. What kind of guidelines did you have for that investigation?

Mr. ANDERSON. I would like Mr. Allison to react to this, if he might, sir, when you talk with him.

Senator BEALL. At some point, you said you ceased to cooperate with HEW.

Mr. ANDERSON. Yes.

Senator BEALL. Why did you cease to cooperate with HEW?

Mr. ANDERSON. For two reasons, sir.

One, the method of procedure in our county; and two, as a superintendent of schools, I felt that it is time for this Congress and this Nation to realize what is taking place.

That is how seriously I feel it is.

Senator BEALL. What records, if any, have you refused to provide to HEW?

Mr. ANDERSON. I cannot imagine.

The deputy superintendent's log, we did not provide, but he can have it with the names taken off. There is no question about that.

All the other records, to my knowledge, have been provided.

We did exclude from him—we did not provide individual student records. We said if a parent—you can certainly go to those parents to give you permission.

The law of the State of Maryland says this, and as superintendent of the schools, I have sworn to uphold the confidentiality of student records in our county. And I think that is important to people.

The other item is a discussion with members of our staff without a transcript or record of what takes place if the staff members so wish one.

I think there is a great deal of confusion about what has not been supplied, sir.

We have here copies of the documents. I do not know what else you could get.

Senator BEALL. In other words, you are suggesting that from your point of view, the only information you would not supply is the name of students involved?

Mr. ANDERSON. Yes, sir.

Senator BEALL. And the only other restriction would be that you would insist that some transcript or record be kept of the conversations between employees of your school system and HEW officials?

Mr. ANDERSON. If our employees wish it, sir.

Senator BEALL. If these conversations take place, and if the employees wish it?

Mr. ANDERSON. Yes.

Senator BEALL. You cannot see any other objection to conducting the investigation?

Mr. ANDERSON. Yes, sir.

I might add the information is available to the public press as well, because we do not believe there are any records or documents in our school system which should not be available to the public.

Senator BEALL. Do you have any estimate of the cost of all this?

Mr. ANDERSON. Substantial. I might say one of the things you might be interested in, if you could get from all the school systems in this Nation the cost of some of the records that we have to keep, I think some of them, sir, are just uncalled for.

I will not go into that matter here, but I think that is something that is well worth looking into.

Senator BEALL. Could you give a ball-park estimate of the cost?

Mr. ANDERSON. In terms of recordkeeping, all these other things over the last 2 years, we could estimate in excess of a half million dollars, sir.

Senator BEALL. This is the cost to you?

Mr. ANDERSON. The cost of providing records of all kinds, the manpower involved, yes, sir.

I would say that this is probably not unlike any other school system of our size in the Nation as I have talked with superintendents.

Senator BEALL. At any time, did HEW threaten to cut off funds?

Mr. ANDERSON. I do not believe so. Did they?

There was a note that it could result.

I might say a rather interesting thing. Mr. Holmes made reference to a request for information for the extension of ESAA grants. Let me just refer to that, if I may.

I would like to give you the information which was requested.

The material requested included this: information on all black coaches back to the year 1961.

We have not had coaches in Anne Arundel County other than classroom teachers ever. Up until just a couple of years ago, they received no additional compensation for coaching, and we never kept such records. There was no record of coaches, and there was no such thing as the job of coach. It was a teacher assigned to coaching.

So we had no such records. They could not be gotten.

The name, race, date of offense, and penalty for each student disciplined in the 37 schools specified during the preceding 3 years.

I do not believe the person who requested that information has ever been in a school system. The person may have never even been in a school or he never would have requested such a ridiculous piece of information.

Narrative description of our disciplinary rules on a school-by-school basis. We have countywide policies for that, and they have those. There are no school-by-school rules.

A complete disciplinary log on each student enrolled in the learning center. To my knowledge, that is in the pupil records. That information, I would say, would cover this table.

A complete disciplinary log on each student referred to local authorities. All that information, to my knowledge, is published in our routine reports which, by the way, go to the press.

Sometimes the press runs headlines, "Crime in Anne Arundel County Schools," as a result of these reports.

We do ourselves, apparently, harm by doing these reports, such as juvenile court, police department.

Explanation of existence of classes in 59 schools which HEW felt were identifiably racially isolated.

I have been in every classroom in Anne Arundel County, I believe, and I have never seen such a class.

An explanation as to why students are not included on our ESAA Advisory Council.

Verification of nondiscriminatory practices of St. James Francis School. St. James Francis School is a private school. It has no relation to us.

Senator **Beall**. Was that the one cited in the recent *Adams* case?

Mr. **Anderson**. No. As a matter of fact, a few days before having us investigated for discrimination, Mr. Holmes sent us a letter in which he praised us for handling segregation practices, and he congratulated us on the learning center. That statement is included in our statement.

Senator **Beall**. So on, the one hand, the Director was congratulating you; and on the other hand, the staff was investigating you.

Mr. **Carter**. Yes. One day later.

Senator **Beall**. Thank you, Dr. Anderson.

Our next witnesses are Dr. Howard C. Allison, assistant State superintendent, Maryland State Department of Education, and chairman of the task force, accompanied by Joseph H. Morton, regional coordinator of the Maryland State Department of Education; and I understand Mr. Frank De Costa was to be with us but is not present today.

Mr. **Anderson**. Senator, we have here a transcript of the board of education of Anne Arundel County and myself as defendants in a court case which was referred to.

If you would like, we would like to introduce this into the record.

Senator **Beall**. Yes; we will put that into the record, too, Doctor. Thank you.

[The prepared statement of Mr. Anderson and the transcript referred to follow:]

statement of:

DR. EDWARD J. ANDERSON, SUPERINTENDENT
ANNE ARUNDEL COUNTY PUBLIC SCHOOLS
2644 RIVA ROAD
ANNAPOLIS, MARYLAND 21401

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delivered to:

THE SUBCOMMITTEE ON EDUCATION
OF THE
SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE
on Wednesday, April 30, 1975

Mr. Chairman and Members of the Sub-Committee:

Thank you for permitting us to meet with you here today to discuss with you our concern for the future of an effective system of free public schools in this country. If our recent experiences in Anne Arundel County, Maryland are to serve as an example, we believe that we have ample cause for this concern.

The survival of a system of free public schools which is close to the people it serves and responsive to their very real needs is being seriously threatened. It will not survive if it is continually forced to submit to the misdirected whims of federal agencies which are far removed from the approval and control of local citizens.

There is a total lack of specific administrative procedures, regulations, or guidelines governing the conduct of at least one of these agencies. I refer to the Office for Civil Rights of the Department of Health, Education, and Welfare. What has happened in Anne Arundel County over the past two years dramatically illustrates the need for such provisions. The continuing operation of this federal agency in the absence of such controls threatens to undermine the very basis of our democratic system.

What we are presently witnessing is the gradual erosion of individual rights and freedoms, as well as the traditional guarantee of local control of our schools, in the face of a rising flood of arbitrary and capricious actions by this agency. What we are confronting is the threat of complete federal takeover and control of local prerogatives, to the extent that we may well wind up with what is essentially a federal public school system.

Make no mistake about it. That is the issue which faces this Committee and this Congress, not only as it relates to federal government interactions with the Anne Arundel County school system, but with local school systems across this nation.

Let me give you some examples of what has developed in Anne Arundel County in our attempts to work with the Department of Health, Education, and Welfare.

Until July of 1973, we were devoting all of our energies to the task of running a school system for approximately 80,000 youngsters in Anne Arundel County. There were many indications we were doing an outstanding job.

This is not to say that we did not have, or that we did not recognize the existence of, problems in our school system. Certainly we had problems. But we were facing them, and---with the help of our staff and with the understanding and support of the community---we were resolving them satisfactorily.

A case in point is the difficult and challenging problem that confronted this school system following receipt of a Federal Court Order in February, 1973 directing us to immediately develop and implement a plan to complete our ongoing efforts to establish a unified system of public schools in our county. Our unqualified success in that effort was attested to by Mr. Peter Holmes, director of the Office for Civil Rights in Washington, who said in correspondence to us:

"The leadership which you and your board have shown in the reorganization of schools and the development of an acceptable plan is commendable."

The supreme irony of this letter is that it was sent on July 23, 1973---one day prior to the entry of federal civil rights officials into our county to investigate alleged discriminatory practices.

That visit in July of 1973 was preceded by a telephone call a few days prior in which my secretary was told that a representative from the Philadelphia Civil Rights Office of HEW would like to talk with us about some complaints of racial discrimination which HEW had received. A meeting was arranged for July 24.

On that date we were visited by not one, but four members of the Philadelphia staff of the Office for Civil Rights, who described themselves as members of an "investigate team." We were questioned for several hours about our relations with black students, black parents, and selected, self-appointed community leaders. This wide-ranging discussion touched upon other topics as well, including our curriculum, our employment and promotion procedures, our Learning Center program, the history of desegregation efforts in our county, and our dealings with the local Community Action Agency.

It was not until very late that day we were able to elicit from the investigators any idea of the nature of the alleged acts of discrimination which had prompted their visit. In fact, it was not until the following day that we were told the source and nature of those charges.

As it turned out, this visit by a four-man investigative team was generated by a single complaint received by HEW from an Annapolis-based parents' group. Embodied in this complaint was a series of broad, general charges alleging racial bias in certain school system operations, including student discipline.

These charges contained no list of specific incidents, names, times, dates, or places. They were sweeping in scope and totally lacking in substance. I would like to read two of the charges directly from this bill of complaint.

The parents' group said [and I quote]:

"We have received complaints that some children are receiving harsh punishment for insignificant and trivial acts. The punishments outweigh the acts."

"We received complaints that students who do not buy their lunch are put in a separate room by the bathroom."

[Close quote]

A total of fourteen allegations of this nature constituted the complaint received by HEW. To repeat, in not a single instance were any details of the alleged offenses either offered or produced, rendering the complaints themselves virtually impossible to investigate or respond to in any meaningful fashion. Yet we were asked by HEW's investigative team to make just such a response.

This four-man team told us its investigation of these charges would require unlimited access to student records, school board policy, disciplinary logs, inter-office memoranda, suspension data and other file material. In addition, they said they would require on-site interviews with central office staff members, local school personnel, selected students, teachers, parents, and community groups.

While we are always willing to---and, in fact, always do---investigate in detail every substantiated charge brought against the school system on any matter whatsoever, we could not agree to permit wholesale access to the broad spectrum of information demanded by the HEW team. It was our assessment these demands amounted to nothing more than a fishing expedition, undertaken in the hopes of adding substance to a complaint which was superficial, irresponsible, and without basis in fact.

In addition, submission to HEW's demands for unlimited access to student records would have had three effects: first, it would have violated the provisions of Article 76A of the Maryland statutes, which article deals with the confidentiality of certain records, as well as State Board of Education by-laws and local school board policy regarding access to student records; second, it would have thwarted the legislative intent clearly enunciated by Congress in Title VI, Section 602 of the Civil Rights Act of 1964; third, it would have amounted to an abdication of local control of education, which under the Constitution is a state function.

While, for the reasons just stated, we refused to permit access to records as requested, we did arrange for interviews between the HEW team and designated members of our staff, some of whom were called in from vacation to accommodate the Philadelphia contingent. The team conducted its first interview of the morning, but failed to meet the remainder of its appointments as scheduled. No explanation was given.

This ended our first interaction with HEW on the question of student discipline procedures. The date was July 25, 1973. This date did not mark the end, however, but rather the beginning of an arduous and incredible series of contacts, letters, meetings, attorney conferences, staff work sessions, and telephone calls which have continued to this very day.

This protracted harassment of the Anne Arundel County school system, under the guise of legitimate federal activity at the local school system level, culminated in our direct appeal to Senator Beall and other representatives in Congress, and our appearance before this Committee today.

The specific details of this prolonged federal intervention are contained in the Chronology of Events and the supporting documentation which has been provided each member of this Committee.

We will not impose upon your time here today to recite the entire litany of these day-to-day interactions. We would, however, like to give you just a few examples of the attitudes, actions, and activities which have characterized HEW's handling of this matter throughout.

On January 22, 1974 a letter was sent to us by the regional director of the Office for Civil Rights in Philadelphia. The director informed us that, in order for our school system to be certified as eligible for funds under the Emergency School Aid Act (ESAA), it would be necessary for us to supply certain information.

The material requested included: information on all black athletic coaches back through the year 1961; the name, race, date, offense, and penalty for each student disciplined in 34 specified schools during the preceding three years; a narrative description of our district's disciplinary rules on a school-by-school basis; a complete disciplinary log on each student enrolled in the Learning Center; a complete disciplinary log on each student referred to local authorities, such as juvenile court, the police department and other such agencies; an explanation of the existence of classes in 15 schools which HEW felt were either racially identifiable or racially isolated; an explanation as to why students are not included on our ESAA Adult Advisory Council; and a verification of the non-discriminatory status of the St. Jane Frances School, which is not a part of our school system.

The school system was given 15 days to provide the above information.

On June 20, 1974 the superintendent of schools for Anne Arundel County met personally with Mr. Peter Holmes in Washington to examine ways in which HEW's activities in the county might proceed. In the presence of legal council for both parties, an agreement was reached to continue HEW's investigation into student discipline practices in the county only after development of procedural guidelines. These guidelines were to be mutual established in work sessions involving both HEW and local school system personnel.

I would like to digress for just a moment and explain why we felt such procedures were necessary. In discussions both before a Congressional Committee and with the media, Mr. Holmes explained that HEW's intention was to look at the problem of so-called "second generation discrimination" in America's public schools. He openly acknowleged that HEW was not entirely certainly what it was looking for, or how it would go about finding it. He then said that a "pilot project" was being undertaken in one large public school system. This project was to be used as a testing ground, so to speak, so that HEW might develop investigative techniques and procedures to be used in other school systems across the nation.

The school system Mr. Holmes was referring to, and in which the pilot project was to take place, was Anne Arundel County, Maryland. It became very clear to us during our interactions with HEW in this investigation that Mr. Holmes was not kidding when he said no firm procedures or guidelines had been developed for conducting such inquiries. The problem was that, by using this hunt-and-peck system in Anne Arundel County, certain civil rights at the local level were being violated.

For this reason, we suggested to Mr. Holmes that a set of guidelines for the investigation be developed by HEW and our school system which would enable the investigation to proceed in an orderly fashion. Mr. Holmes agreed to this in the presence of council for both agencies.

Subsequent to our conversation in Washington, the school system sent to HEW a set of proposed guidelines for their consideration. Of intention was to use the preliminary draft as a basis for discussion and examination of alternatives. The reply we received from HEW was, however, rather startling.

On August 9, 1974 we received a letter from Mr. Holmes rejecting our proposed guidelines and informing us that HEW was not required under the law to enter into any agreement with local school systems relating to its activities therein, and that he did not intend to do so. He then indicated that HEW investigators would soon return to our county to pick up the investigation.

Thereafter, a series of meetings were held as part of the investigation. HEW investigative team members interviewed school system staff members at considerable length.

During the course of one of these lengthy interviews, the county's Learning Center program was discussed. I should explain briefly that the Learning Center is an alternate school to which students with severe behavior problems are referred. During the course of this discussion a member of the HEW team asked the following question:

"At what point in the disciplinary process are students apprehended and committed to the Learning Center?"

Our staff members were stunned at the tone of this inquiry. It was carefully explained that students were neither apprehended nor committed to the Center, but were referred to the center by school staff, and entered the program only upon mutual agreement between the school system and the child's parents or guardians.

This incident, however, pointed to a larger problem our staff members sensed from the very first arrival of HEW personnel in Anne Arundel County. The question as asked reflected the whole tenor of the investigation. It appeared very much as if some minds were already made up. It appeared as though HEW felt it had a case to make regarding the so-called "push out" problem in public schools, and had come to Anne Arundel County to make it. This judgment was not based on the one single question asked in the one meeting we have detailed. This question is merely an example of a continuing attitude projected by HEW's investigative team throughout its inquiry.

The posture adopted by HEW during the course of these past two years raises serious questions we feel must be addressed and resolved.

These questions are:

1. Under the law, HEW claims the right to enter any local school system and initiate an undefined and limitless investigation based upon receipt of a single, unsubstantiated charge of discrimination. Are there any limits to this authority?
2. How long may such an investigation continue?
3. How far may the scope of such an investigation extend?
4. How many hours must a local school system divert from its proper activities to satisfy this agency's seemingly insatiable appetite for interviews, numbers, ratios and percentages?
5. How many records must be produced and analyzed?
6. How many dollars must be spent by school system's alre[illegible] facing critical money shortages before they can expect to arrive at a sensible conclusion concerning one or two relatively minor complaints?
7. What guidelines exist to control an agency's decision to make a quantum leap from the relatively simple task of resolving one, or several, specific complaints to the immensely more complex investigation of so-called "institutionalized racism"?

These questions are raised with good reason. From July 24, 1973 to the present day, the original complaint which brought teams of HEW investigators clamoring to our door has not been resolved by the Office for Civil Rights. Nor have the two additional complaints which HEW says it received in the spring of 1974. It does not appear HEW is even interested in reaching a conclusion in these cases. The reasons for this lack of resolution are in any case puzzling, to say the least. A cloud of suspicion has been allowed to hang over this school system for nearly two years as a result. That situation cannot be tolerated.

While the delay in resolving these complaints is bad enough, HEW took the incredible step of using the existance of these three complaints as the basis for launching in Anne Arundel County a second, more sweeping investigation of all student sidciplinary procedures. It characterized this investigation as a "pilot project" to be used as the basis for a nationwide inquiry into the so called "push-out" problem in America's public schools.

Initial notification that this second, and larger, inquiry was underway came to the Anne Arundel County Public Schools not through official channels, but though the press. We were surprised to find in the headlines of four daily newspapers serving Anne Arundel County that this school system was the subject of the so called "pilot project". Thereafter, we received formal notification in the form of a letter from the Office for Civil Rights in Washington.

When asked by the press why Anne Arundel County was chosen for the pilot project to determine the effects of what HEW called "second generation discrimination" in America, spokesmen for the Washington Civil Rights Office said, "Because we are already there."

Pressed further, they said that the county was selected because HEW already had in hand "three legitimate complaints" of racial discrimination in student disciplinary practices there.

While to this day those three so-called "legitimate" complaints have not been resolved by HEW, the complaints have been investigated and resolved by a special inquiry team appointed by the Maryland State Department of Education. The conclusions of the State Department team are included in a report which is included as Exhibit B-2 in your information packets. Members of the State Department team are present at this hearing to answer any questions you may have regarding their inquiry in Anne Arundel County.

With regard to the question of how many reports and how much data a local school system should be required to produce for HEW, we want to make clear that we have given Federal investigators volumes of information, data, statistics, publications, summaries and reports which have consumed endless hours of staff time. HEW has received, in fact, everything it has asked for, with two exceptions:

1. Individually identifiable student records, access to which we continue to refuse on the grounds stated earlier.

2. Interviews with staff members, which we have denied because of HEW's refusal to permit a transcript of these interviews. Our request for a witness, a stenographer, or a tape recording of these interviews -- precautions which we felt were necessary to protect the basic rights of those being interviewed -- were summarily denied when the initial request was made.

This drives directly to the heart of the issue. Candidly, it was impossible for us to understand how the Office for Civil Rights, of all federal agencies, could possibly have any objection to having a witness to its interviews or to have a permanent record made of its discussions with individuals whose civil rights may be at stake. It seemed absolutely clear to us that statements made by local school officials would become part of HEW's official record of the investigation of alleged discrimination in Anne Arundel County Public Schools.

As such, we felt it only fair that the interviewee, as well as the interviewer, have an accurate account of the questions asked and the answers given during the course of this inquiry.

At no time during the course of our many contracts with HEW on the questions of student discipline have we denied that we have had some discipline problems in our schools. At no time have we denied that minority students have been involved in some of those problems and have been disciplined because. A statistical report on suspensions by race is included in your information packet as Exhibit B-3.

As an example of the kinds of problems confronted by our school system and others across the nation in recent years, we found ourselves in 1970 confronted by a full-scale riot at our senior high in Annapolis. Our investigation of this incident revealed that the insurgent activity was organized by both adults and students. We took rapid and decisive action in the aftermath of that disturbance.

We are convinced this action has served to generate many of the isolated complaints which have since been lodged against us concerning student discipline. In fact, a member of a local Annapolis organization calling itself the Coalition for Justice is, I have read in the newspaper, scheduled to appear before this committee today. This same individual was expelled from Annapolis Senior High School following the 1970 incident.

While we know that rapid and decisive action in the wake of incidents such as these will produce a negative response in isolated quarters, we are aware that the overwhelming majority of our citizens expect us to run an orderly and productive school system. We are aware that in a recent Gallup poll an overwhelming majority of citizens indicated that their primary concern in public education was "student discipline". This increasing public concern is reflected in other ways as well. It is reflected in the letters and telephone calls received in our office. It is reflected in legislative inquiries undertaken by committees of the U.S. Congress and by delegations of the Maryland General Assembly. It is reflected by the increasing involvement of local county officials in the security problems encountered by our schools.

The people are telling us, in a voice which is loud and clear, "We have had enough of our classrooms being disrupted. We have had enough of our children being endangered. We have had enough of our schools turning into pure jungles. We have had enough of our teachers being intimidated, threatened, and assaulted."

The people are telling us these things, but it seems to them that somebody isn't listening.

When the federal government, through its Department of Health, Education, and Welfare, openly declares that a public school system is under investigation for discrimination, and when that announcement is couched in highly accusatory tones and inflamatory statements made to the press, as happened in the case of Anne Arundel County, the very basis of the school system's authority to administer discipline is undermined.

There can be no excuse for either the language or the timing of statements concerning its pilot investigation made by HEW to radio, television, and newspaper reporters covering Anne Arundel County. We have included in your information packet a complete chronology of the early press coverage of this investigation. Included among the highly irresponsible statements made by HEW to the working press was the off-the-record comment that this second, larger investigation was sprung on the school system with little advance warning or explanation because, in the words of an HEW source, "We don't want them to be too prepared. Records would be 'lost,' 'misplaced,' or made unavailable."

In the atmosphere created by reckless statements it is obvious that any individual who has a vendetta against this school system, or who wishes to challenge our authority to discipline, will be tempted to defy that authority with the comment, "I'm going to HEW."

If those who wish to disrupt our school system know that a single unsubstantiated complaint can produce a rapid movement of the massive machinery of the federal government, and its Department of Health, Education, and Welfare, you can be sure every disciplinary action we take will be open to the threat that such intervention will be requested.

We know this, our principals know this, our teachers know this, and the parents of this county know this. It cannot help but have a chilling effect on our efforts to give to our citizens what they so earnestly request:

schools that are safe for their children.

What is the answer? Should HEW not be permitted to investigate legitimate complaints forwarded to it by citizens? Of course not. The answer lies in sensible controls. The answer lies at the center of the issue we place before this Committee today.

School systems must not be placed in a position wherein it is assumed they are guilty until proven innocent. They should respond to legitimate inquiries from HEW because HEW has received a mandate from this Congress to insure fair and equal treatment to all people. But when, in their overzealous attempts to protect those rights, HEW abridges the rights of others, it is time for Congress to take another look at what it intended by its mandate.

We do not believe Congress ever intended that HEW, or any agency of the federal government, should have the right to go any place, at any time, and demand anything it wants, under the guise of protecting individual rights.

We believe in fairness, but the rights of all people must be preserved. In the instance of HEW and its potential usurption of those rights, we have chosen to stand up and say: this far and no further. We fear that if we do not take this action at this time, and in this place, no one else will.

The Anne Arundel County School System believes and teaches that America is the greatest democracy on the face of the earth, but in reviewing our interactions with HEW over the past 21 months, we have concluded this is no way to run a democracy.

Our recommendation, therefore, is that Congress, using its oversight authority, require an immediate halt to all investigations conducted by HEW until such time as specific administrative guidelines, regulations, and procedures governing the nature and conduct of such investigations are developed.

We further recommend that the development of such specific policies include input not only from those who would undertake such investigations, but from those who would be directly affected by them, including local school system administrators, principals, teachers, and citizens, all of whose rights must also be protected. Thank you.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA :

Plaintiff :

-VS- :

CIVIL NO.

BOARD OF EDUCATION OF :
ANNE ARUNDEL COUNTY, and
DR. EDWARD J. ANDERSON, :
Superintendent of Schools
of Anne Arundel County :

N74-1270

Defendants :

- - - - - - - - - - - -

February 21st, 1975

Baltimore, Maryland

The above entitled matter came on for a hearing on the motion of defendants to dismiss and the motion of plaintiff for a preliminary injunction before the Honorable Edward S. Northrop, Chief Judge, beginning at 11:00 o'clock A.M.

APPEARANCES

For the Plaintiff:

Christine D. Ver Ploeg, Attorney at Law
Virginia Draper, Attorney at Law
Alexander C. Ross, Esquire

For the Defendants:

Thomas J. Wohlgemuth, Esquire

Reported by E. Edward Richardson
Official Court Reporter
301 United States Courthouse
Baltimore, Maryland 21202

PROCEEDINGS

THE CLERK: Civil Action No. K74-1270, United States of America versus Board of Education of Anne Arundel County and Dr. Edward J. Anderson, Superintendent of Schools of Anne Arundel County. Hearing on motions.

Who is counsel for the plaintiff, sir?

MR. WOHLGEMUTH: I am counsel for the defendant, but I have the first motion.

THE CLERK: This is the defendant's table always, and this is the plaintiff's table, please.

You are Mr. Wohlgemuth?

MR. WOHLGEMUTH: Yes, sir, Thomas J. Wohlgemuth.

THE CLERK: Thomas J. Wohlgemuth for the defendant. Who is counsel for the plaintiff?

MRS. VER PLOEG: Christine Ver Ploeg.

THE CLERK: Christine Ver Ploeg.

MRS. VER PLOEG: Right.

MRS. DRAPER: I am Mrs. Draper.

MR. ROSS: Alexander Ross, R-o-s-s.

THE CLERK: Alexander C. Ross.

THE COURT: All right.

THE CLERK: Two matters open, the motion of defendants to dismiss and the motion of the plaintiff for a preliminary injunction.

Mr. Wohlgemuth, I think your motion is first.

MR. WOHLGEMUTH: Very well.

May it please Your Honor, we filed a motion to dismiss the original complaint and I am sure Your Honor has read it.

The original reasons may be, as the Government has suggested, for misjoinder and nonjoinder. These are technical defenses. I feel that the Board of Education itself, which I think the Maryland law is clear upon, says that a Board of Education is composed of certain members. We say that they should all be sued, not just the Board of Education.

It's true the Maryland law says they shall be ~~sued and~~ be sued as the Board of Education. The Government initially filed a suit against the Board of Education of Baltimore County and included each member of the Board of Education.

The second is that Dr. Anderson was sued. He is an employee of the Board, just as a principal is, just as a statistician is, just as I am. I don't think he should be included as a defendant in a case brought by the Federal Government. He does what the Board tells him. He doesn't have the security of a tenured teacher. I suggest it is a misjoinder. He should be dismissed from the case and I would ask the Court to do that.

As far as the other reasons are concerned, Your Honor, I would like to go into a little background, if I may, just in general comments.

This thing between the Government and Anne Arundel County has been smouldering for some time, starting back in July of '73, and the Government at that time wanted personal records of students. It all comes down to the same question now here today. All of this technical jargon, the Code of Federal Regulations, the Constitution, ~~Civil Rights Act, Section 6 or Title 6, is, I submit,~~ window dressing. It all comes down, as the Government well knows, as they were told in July of '73, that we have State law, we have State Board of Education by-laws that don't allow us, that make it a crime, that would subject our people to civil actions for damages if we released medical, psychological, the personal data that can be found in especially children who have been disciplined.

The original thrust of this study in Anne Arundel County was to determine what was the cause of push-outs. They call push-outs, dropouts, or withdrawals. These are kids who have been disciplined and they usually have studies made either privately by the parents or at the request of the school through the school psychological personnel.

These records contain extremely personal comments, domestic problems between parents, physical problems, mental problems. We're right down to the same question. As far as the material that has been supplied to them, which they in their complaint say has not -- I brought this here. I realize this is not an evidentiary hearing. We have supplied them with so much data that is never ever requested of other school systems.

THE COURT: Well, now are you arguing your motion to dismiss? I thought you were going to argue that --

MR. WOHLGEMUTH: Well, I am. I want to go through the first two paragraphs in my motion which I am sure are not major points in Your Honor's or even my way of thinking, I'm just trying to lay a background for what I'm getting to.

If Your Honor doesn't want to hear any more, it's just the history of it. It's not evidentiary.

THE COURT: Well, I mean that's not a reason for dismissal.

MR. WOHLGEMUTH: All right, Your Honor. Well, I think these are reasons for dismissal.

If the Government is relying on the Code of Federal Regulations, which says, admittedly, that they can get any records any time any place anywhere and, therefore, when Dr. Anderson who, incidentally, is not the Chairman of the Board or President of the Board of Education, who signed this compliance agreement back in 1968, it's said '66, but it's '68, if he realized he was agreeing then to supplying personnel records of students, he was agreeing to break the State law. I submit there was no understanding at that time. They sent a little form that said do you agree to non-discriminate, do you agree to provide the same facilities to anybody regardless of race, creed, color or national origin. He didn't realize but what they say now is well, you agreed then to give all personal records of all students. We submit that that is probably against public policy for him to agree to something like that and, therefore, contractually may well be void.

The Code of Federal Regulations has one limitation. It says during normal business hours. That's the only limitation, if you will read 80.6, 45 CFR, that's the only limitation therein.

Now, they also do say that if it's confidential material, don't worry about it, we'll take care of it. We will provide proper safeguards, which they haven't done. They've never made any effort to do that. There has been subsequent legislation that says they should do it and they still haven't. I mean, the Health, Education and

Welfare, but, in the same section, 20.6 says if there is confidential material, we will provide safeguards, but after that in C it says they can give this material to anybody they want to, as regularly happens. They provide it to other associations, citizens groups and things like that, so it's not confidential. Once it's given to the Department of Health, Education and Welfare we can expect it's open to almost anyone, and that's what the Code of Federal Regulations says. It says will be supplied to beneficiaries. We don't think we have to supply them that certain information.

Now, you can't tell from the bill of complaint or their original complaint that this is the gist of the problem, but I think in all honesty as we discussed in Your Honor's chambers, we're down to one question.

If they insisted on personal records, we can't give it to them absent Your Honor's order. That's really all it comes down to. If you read the bill of complaint, we have given them nothing.

As a matter of fact, as I'm sure the Department of Justice attorneys must be aware of the fact --

THE COURT: Well, now you're arguing again. You're not arguing so much on your motion to dismiss, counsel. Stick to that. We'll get to this other stuff, I'm sure.

MR. WOHLGEMUTH: Well, Your Honor, I'm attacking their complaint which says that we have refused to provide them any materials, just on the basis of what would in my practice be similar to a demurrer. They have alleged things which aren't true. We can prove we have supplied them with this material.

THE COURT: Well, there's a factual difference, I'm sure, with reference to what you're saying, counselor, but go ahead.

MR. WOHLGEMUTH: All right, Your Honor.

They say that 80.7, let's see, 80.7 says they are entitled to make an investigation after a complaint or after a compliance review shows that there is a possible violation of Title 6 of the Civil Rights Act.

Now, they haven't alleged in their complaint what the complaints were or what the compliance review said. Now, it seems to me, under the barest necessities of any sort of pleading you should say you have done this, you have done that. What they are saying is you have failed to give us information because we have asked you for it. They haven't said why they are entitled to this information. I think they should be required to say that. They should say we have a complaint from Johnny Jones whose parents said he was kicked out of school because he was black and you refused to give us any of Johnny Jones' records. Okay. They'd have a case. We wouldn't be in Court if that was the situation.

I think they should give us some facts and figures. How can we defend against a case absent some exact accurate knowledge of what they are complaining about.

Their correspondence says five complaints. Then it says three complaints. Then it says these people -- we don't know. We think we know, but they are the ones ~~who are bringing the case. They should pin this down and~~ I think the Code of Federal Regulations says that very clearly. It says if there is a complaint then we make an investigation, but before they make an investigation they are supposed to satisfy themselves that there has been a possible violation. Have they satisfied themselves of that yet? We submit no. The correspondence that is either attached to their original complaint or our motion to dismiss shows clearly that they have ignored the individual complaints. Peter Holmes and David Gerard, the two Office of Civil Rights representatives, the head of the Office for Civil Rights, said we have specific complaints. Therefore, we're going to come in and investigate you and this will be the conduct of the review. The conduct of the review is to get suspension data. They ignored Johnson and the Gentry boy and the parents of the association. It's clear and obvious that their purpose is not to pursue these complaints which are almost two years old now and we assume they have the parents' consent to look at those records, they ignore it, but they say we are entitled to all of this other information, but they haven't pursued the complaint. They don't even allege that they have a possible violation of the Civil Rights.

They are using these things, we feel clearly, as a foot in the door to use the system as a, what do they call it, a target system to develop guidelines that they will use throughout the nation, which appears in the exhibits that we have filed in the motion to dismiss.

Anyway, on a technical ground, I think that they should allege that they have specific complaints which are, in their opinion, violations of civil rights and, therefore, they should look at the records involved in those specific complaints, and they haven't said that.

Now, we have said that they haven't said what the specific complaints are in Paragraph 5. It's true, as the Government says, we probably know what the complaints are, but we asked them to state what those complaints are. They are the ones initiating this thing. Let us know what the complaints are they're talking about, not what we think they think and so on and so forth. I think they should allege these things.

It's clear from the correspondence that they are trying to use us as I say for this pilot review, that's the word I was trying to think of, and we don't think the Code of Federal Regulations or any other law in the country provides for pilot reviews absent our consent. We don't consent.

They have every right to come in and investigate complaints, but they don't have the right to come in and turn this system upside down and keep requesting this and keep requesting that, which costs a lot of money and time.

We have State investigations. We have Federal investigations. We have community people coming in. These people don't have time to do their proper work in educating the kids. They are coming in asking for all of the data that no one has ever supplied before. The Government says this is routine. They get their annual Civil Rights Survey. We've got receipts. They have been supplied to them. That's an awful lot of data right in there that would take the statisticians months to analyze. How many blacks. How many whites. Who drops out. Who is suspended, and in a Code, about forty different reasons. If they want that, they've got it. We've got the receipts from it, yet they say we've never got it. Then they say we want all of this other material.

THE COURT: Counselor, you're going to have to repeat this.

MR. WOHLGEMUTH: Pardon me, sir?

THE COURT: You'll have to repeat this. I don't think it's applicable to your motion to dismiss. I wish you would stick to that.

I'll hear you out on the things that you're talking about.

MR. WOHLGEMUTH: All right, Your Honor.

Then they say we have refused to maintain records. Now, I submit let them tell us what records we have refused to maintain. They have asked Your Honor to enjoin us from refusing to maintain records, but they don't say what records. They don't say what records we have refused to maintain. They said we have refused to give them certain records that we have or we think they have although we have been told they don't keep certain records, but they said supply them.

They haven't said what records we have refused to maintain as a routine matter. Of course, therefore, I think their complaint is defective.

Now, it's true, as the Government has said in their answer to our motion, that the -- I think I cited Title 2 of what would be the Equal Opportunities in

Education Act which requires the Attorney General to first, before he initiates any action, to determine what the system's violation would be. Then, if the system doesn't answer, then he certifies it to the Court as to what the violation is and then if we don't within a certain reasonable time take corrective action he can file suit. They say they are coming in under the Civil Rights Act, Title 6, but Title 2 of the Education Act talks about equal educational opportunities. In the Government's own answer to our motion to dismiss or their memorandum in opposition they cite the Hawkins case, an Equal Education Opportunity case. How can they come in under Title 6 and say they are not giving the kid equal educational opportunity, but the Equal Educational Opportunity Act doesn't apply here because we are not coming in under Title 2 but under Title 6. This is, to me, the height of legal, big government jargon. They should be required to do what the law requires them to do and that's that they certify these things. I think, frankly, if the Attorney General had gotten into this thing long since before except as house counsel at HEW, we probably wouldn't be in Court today. They would have told us what they think legally we have done and we probably would have agreed with them.

The secretary of Health, Education and Welfare, if he can perform these broad data-collecting endless open-formed surveys, he is required to publish guidelines. Now that's in the Elementary and Secondary Education Act of --

THE COURT: Well, now you're still -- I can't see the applicability of this to the motion to dismiss.

MR. WOHLGEMUTH: Well, --

THE COURT: As I said, you're going to have plenty of opportunity to tell me what you are telling me when I get to their request for a temporary injunction or a preliminary injunction. Okay?

MR. WOHLGEMUTH: Okay. I think their complaint is defective in that they have not alleged what the law requires them to do.

All right, Your Honor. I assume I will have a chance to speak again.

THE COURT: Sure. Yes, sir.

MR. WOHLGEMUTH: Okay.

THE COURT: All right.

MRS. DRAPER: May it please the Court, Mrs. Ver Ploeg is going to present argument on behalf of the Government.

THE COURT: Very well.

MRS. VER PLOEG: Your Honor, I am a little uncertain as to the procedure at this point.

THE COURT: Well, the procedure is that we are discussing and the topic before us, counselor, is the motion to dismiss.

MRS. VER PLOEG: Fine. Well --

THE COURT: And I want you to answer him in reference to the motion. You tell me why I shouldn't dismiss your complaint. If you can't tell me, I will dismiss it.

MRS. VER PLOEG: Well, Your Honor, it's difficult to ascertain just exactly what Mr. Wohlgemuth objects to in our complaint.

THE COURT: Well, the first thing he said is, if you will remember, is there is a misjoinder of parties.

MRS. VER PLOEG: Well, and if Your Honor would note in our opposition to the motion to dismiss, we cited Rule 12B7 of the Federal Rules of Procedure and which Mr. Wohlgemuth is apparently using in support of his motion to dismiss.

However, we would note that under Maryland law the capacity of the Board of Education of Anne Arundel County to be sued as that entity is defined under Article 77, Section 33, of the Code of Maryland.

Additionally, we would cite the case of Wicomico County School Commissioners which is found in

35 Maryland 201, an 1872 case, which held that although these Boards are not legal entities in the full sense of the term, these Boards are quasi-corporations with full power to sue and liability to be sued in respect to all the matters within the scope of their duties.

Indeed, it is necessary in Maryland to sue the Board in its corporate name and this was once again established in the case of Jones versus Keating of 35 Maryland 145.

The Board of Education of Anne Arundel County is a proper entity in and of itself capable of being sued and as far as Dr. Anderson goes, as Superintendent of the school, we would call him certainly a proper party, if not a necessary party, in his capacity as supervising the operation of the schools.

Our complaint has not been styled improperly and even if it had been, this is certainly not a proper basis for dismissing an entire lawsuit.

If, indeed, these parties have been cited incorrectly, a more proper procedure would be to simply amend the complaint rather than throwing the entire case out.

Another objection which has been raised by Mr. Wohlgemuth is the fact that the complaint and the relief requested therein violated Maryland law. Mr. Wohlgemuth seems to suggest that a Maryland State Board of Education by-law is, in effect, supreme to Federal law which would permit access to this information.

We would contend that this is a contract action, that defendants have contractually bound themselves to comply with Federal law. Federal law provides that investigators, in the course of a properly conducted investigation, can come into the school system, can obtain the information they request, and are bound by Federal laws concerning confidentiality, protecting the information, keeping within the limits of pertinent sources of information. Federal law does provide that those records which are obtained will remain confidential within the realm of the investigators. There is a specific provision, regulation 44CFR 80.6 which provides that assertions of confidentiality will not bar an investigation. This is only proper in order to conduct an investigation, in order to fulfill the legal requirements imposed on the Department of HEW; they're going to have to be able to get in to obtain the information necessary to resolve any questions which may have arisen.

I would point out that the question in this case is not whether defendants have or have not discriminated against students on the basis of race. That is a question which cannot and should not be debated in this Court because Federal officials have not determined an answer to that themselves. It is, in order to answer that question, as to whether there is discrimination, that Federal officials feel the need to get in and investigate. Defendants have precluded this investigation. We would submit that this is essentially a contract action, that defendants legally bound themselves to permit Federal officials to conduct an appropriate investigation and, therefore, the law is quite clear that Federal authorities have the authority in this respect.

THE COURT: Do you want to answer that?

MR. WOHLGEMUTH: Your Honor, I would like to answer. I am surprised that they would admit that the question is not whether there is discrimination or not. I submit that under the Code of Federal Regulations, they have to make -- that was my point, they have to make that initial decision that there has been discrimination. Therefore, we want records. Otherwise, it's a witch hunt. As I say, these regulations do nothing to restrict them other than in C it says during normal business hours. That's the only restriction. I have tried to find anything else. They can come down all the time. I'm not going to bring in any other facts, but they literally could be there from 9:00 to 5:00 looking and looking and looking which they have been doing now for two years and they have, I submit, the nerve now to say they don't have any question of discrimination. Why are they bothering us then. I think that would be sufficient to grant our motion to dismiss. They have to make that initial determination.

MRS. VER PLOEG: Well, Your Honor, we would object to any discussion of the merits of this case. We feel that the complaint is quite clearly drawn as to the legal authority in this case.

THE COURT: No, what he's saying is that here this outfit known as the HEW comes running around all over the country rummaging in people's ~~files and doesn't~~ give them an opportunity to do the work and educate the children and he wonders why you're all doing it with our money, with the taxpayers' money.

MRS. VER PLOEG: Your Honor, it is not incumbent on HEW to offer up proof of discrimination before they can enter a school system to determine if there is discrimination.

THE COURT: Well, I agree with you on that. Okay. All right.

Having heard oral argument on defendants' motion to dismiss, this Court is unpersuaded that the motion should be granted. Defendants do not repudiate the contract entered into on November 22nd, 1968, whereby the Board of Education obligated itself, as a condition for continued Federal financial assistance, to "comply with Title 6 of the Civil Rights Act of 1964 (PL88-352) and all requirements imposed by or pursuant to the regulation of the Department of Health, Education and Welfare (45CFR Part 80) issued pursuant to that Title."

While not contesting their contractual obligation of compliance with pertinent HEW regulations, defendants claim that the particular information sought in this action goes beyond the scope of permissible discovery. First, defendants claim that disclosure of the requested data would violate obligations of confidentiality imposed by both Federal law and by the by-laws of the Maryland State Board of Education. Of course there is a State law in reference to disclosure as well.

The short answer to this contention is plaintiff's willingness, expressed at the January 7th conference in my chambers, to accept all individual files with the complete deletion of the individual's name, wherever it might appear. However, even absent this concession by plaintiff, the Court would reach the same conclusion regarding the defense of confidentiality. The State by-law on which defendant relies provides that "access to such (confidential) records may be provided for purposes of serving legitimate and recognized educational ends."

The elimination of discriminatory

disciplinary practices is clearly a legitimate end sufficient to invoke this exception. As to the confidentiality obligation imposed by Federal law, revised Section 400c2 of the Elementary and Secondary Education Act of 1965 provides that "nothing in this Title shall be construed to affect the applicability of the Civil Rights Act of 1964 to any program subject to the provisions of this Title."

As to other grounds asserted by the defendants in support of their motions to dismiss, the Court is equally unpersuaded. Plaintiffs have properly named Board of Education of Anne Arundel, and not the individual members thereof, as the necessary party under Rule 19, Federal Rules of Civil Procedure. Jones versus Keating 55 Maryland 145, an 1880 case.

Even if Mr. Anderson had been improperly joined, which we do not believe to be the case, such a misjoinder would not be grounds for dismissal of the action. Rule 21, Federal Rules of Civil Procedure.

Regarding the nature of the investigation and the items of information sought, defendants do not make out a case that the "pilot study" per se, by its very nature, goes beyond the scope of HEW's investigatory authority under the regulations. By operation of 45CFR, Section 80.6, defendants are obligated to permit access to all sources of information "as may be pertinent to ascertain compliance" with Title 6. The mere fact that HEW's investigation is tied in with a larger pilot study does not make the information sought any less pertinent to the ascertaining of compliance. Nor does the fact that only three complaints were filed more than a year ago operate in any way to limit HEW's ability under 45CFR, Section 80.7D, to proceed from time to time to review the practices of recipients to determine whether they are complying with Title 6.

For all of the foregoing reasons, this Court finds that defendants have not stated grounds sufficient to support a motion to dismiss, and the motion to dismiss is hereby denied.

All right. Now, I will hear you on your injunction. Now, look, if you want to say something, why don't you say it. Are you afraid to say something because you're sitting between two women?

MR. ROSS: No, Your Honor. I'm willing to sit here silently.

THE COURT: Well, I don't know. You're not so silent.

MRS. VER PLOEG: Your Honor --

THE COURT: I think maybe you ought to bring a case against HEW for sex discrimination. Maybe you can get the EEOC and HEW in an embroilment in that connection and then all of us would have a lot less to do and business would go on and maybe we'd get out of the recession and the State Government could operate and really do something for the benefit of us taxpayers.

What do you think of that?

MRS. VER PLOEG: Well, Your Honor, in view of your previous ruling and your most previous comments, we would suggest that perhaps Mr. Wohlgemuth would prefer to settle this matter out of Court now that it has been established that the Maryland confidentiality statute --

THE COURT: You keep bouncing him around all the time.

Are you telling me you're withdrawing your motion for a preliminary injunction?

MRS. VER PLOEG: No, we're not telling you that at all, but in the interest of expediting this matter --

THE COURT: I'm going to tell you right now I was going to deny it now and also I'm going to tell you the Act does not give you unconditional power to go in and rummage around and completely destroy the purpose of the Act. Even Congress, when they enacted it, had a purpose in mind although why they enacted part of it I absolutely don't know and I must say this, that it's time that the Court system stood up and exercised its independence in connection with the monolithic huge government in Washington and what they are doing both to business and to government and to everybody and this business, these grants which have been the mode of operation for years caused the Federal Government to actually operate the State Government and, of course, that's the theory of some of the -- I suppose those that belong to the intelligentsia believe that's the proper way of doing things, but no ordinary person could be such a fool.

What's happening in this country, but outside of that, you go ahead and tell me what you want to do now. Do you want to withdraw your preliminary injunction?

MRS. VER PLOEG: As I understand it, you have already determined that it would be denied.

THE COURT: Do you want to talk to him about withdrawing the preliminary injunction?

MRS. VER PLOEG: No, we would not care to withdraw it.

THE COURT: You don't want to talk to Mr. Ross?

MRS. VER PLOEG: We won't withdraw it at this time.

THE COURT: Do you want me to hear you on it?

MRS. VER PLOEG: Yes, I believe so.

THE COURT: All right.

MRS. VER PLOEG: I have some remarks I would like to make in that respect.

THE COURT: All right. I will do that and then I think, as certainly indicated, I can't see any irreparable harm coming to the Government or to the so-called three people in reference to the complaint from any delay and I think as we discussed in my chambers it's time that you people got together and it takes two to dance, you know, two to tango and two to agree and I don't think you can have a one-sided agreement and that you people can go in unconditionally and without taking into consideration the purpose of your organization and that is to promote education. Nobody has got the time to do any educating any more. All they have got to do is sit down and write prolific reports in to the HEW and to this outfit and that outfit and the result is that nobody's getting educated. You spend so many times in the same thing in connection with the Court system practically, continually justifying how many marshals you can have, how many employees you can have, how many this, how many that, and it's ridiculous. It takes half a day to keep up with the statistics you have to send in to some people who keep on expanding their own outfit to the point where it takes fifteen people for one Judge to sit on the Bench and it must take twenty people so that one schoolteacher can operate in the school system. It's utterly absurd.

Now, having said that, what have you got to say.

MRS. VER PLOEG: Well, initially, Your Honor, I would like to offer some documentary material into evidence.

THE COURT: What kind of documentary material?

MRS. VER PLOEG: I would like to have attachments A through D which are attached to the complaint accepted as evidence in this case.

THE COURT: Evidence? We're not trying the case now. You're here for a preliminary injunction.

MRS. VER PLOEG: Well, as evidence or documents in support of the motion for a preliminary injunction and, secondly, I would like to have entered into the record, if it is acceptable, a copy of the EEO 101 and 102 forms which were submitted by the Anne Arundel School System. I have here the original which was signed by Dr. -- by a gentleman by the name of Shipley, the coordinator of the information system, and I would like to enter into evidence or in support of my motion this copy, if that is agreeable with opposing counsel.

MR. WOHLGEMUTH: Your Honor, may I have a minute. I'm not sure what the EEO 101 is.

Okay.

MRS. VER PLOEG: And so this, in addition to the four attachments to the complaint, would be labeled Exhibit E.

THE COURT: Exhibit E. Well, why don't you give it to the Clerk and mark it as Exhibit 1 in reference to the hearing on the preliminary injunction.

MR. WOHLGEMUTH: Your Honor, I would have no objection, assuming we have a chance to look at those things and find out they are accurate and so on.

THE COURT: Well, tell us what they are. Who compiled those things?

MRS. VER PLOEG: This is --

THE COURT: You told me about some Mr. Shipley. Where is he, down in Anne Arundel County?

MRS. VER PLOEG: Yes, he is an official of the Anne Arundel System. These are statistics which are annually submitted to the Department of Health, Education and Welfare and they give data as to student enrollment broken down by race and numbers of suspensions broken down by race. It's data which is submitted annually and this was with respect to the Anne Arundel System.

THE COURT: Well, do you think you need to do that now? We will stipulate that you can submit it and then when we get to the point where we have to try the case you can come in, but that evidence was submitted. What are you submitting it for?

MRS. VER PLOEG: Well --

THE COURT: What's the purpose?

MRS. VER PLOEG: Well, to simply have it on the record. I feel that it's pertinent to some of the remarks I would make in support of the motion for a preliminary injunction and I think with respect to that --

THE COURT: Well, can't you stipulate with him for the purposes of this motion that such data was kept and was submitted to HEW?

MRS. VER PLOEG: Your Honor, I'm simply trying to get this --

MR. WOHLGEMUTH: We'll stipulate, Your Honor.

MRS. VER PLOEG: -- entered as a matter of the record. If you don't care to have it entered now, --

THE COURT: Well, what I'm saying is do we have to keep that thing now. I know we're going to get it sometime.

MRS. VER PLOEG: Well, I would request the Court --

THE COURT: You people come over here with thousands of tons of paperwork. We've got thousands of tons of paperwork over in Washington. It's getting so we're not going to have any room to do any work because you've got all of these papers.

MRS. VER PLOEG: I would request this Court to accept this as evidence at this time.

THE COURT: Sure. All right. Okay. Accept it, Mr. Graham.

THE CLERK: Marked as Government's Exhibit No. 1 for the purpose of the motion for preliminary injunction only.

(Thereupon, the papers referred to were marked Government's Exhibit No. 1.)

THE COURT: Okay. All right. Now, what's the next thing you want to put in?

MRS. VER PLOEG: Well, could I understand at this point, are my attachments A through D considered evidence at this point?

THE COURT: You might have what?

MRS. VER PLOEG: Are the attachments to the complaint entitled Exhibit A through D also in evidence at this time?

THE COURT: I will consider them, if you wish me to.

MRS. VER PLOEG: Thank you very much, Your Honor.

Your Honor, in support of the motion for preliminary injunction, I have a few brief statements.

First of all, this is a contract action. This is a contract action which is based on Federal Civil

Rights-law and it stems from the fact that defendants signed an assurance of compliance in order to receive Federal funds.

This assurance stated that they would comply with Title 6 and with the regulations. The regulations provide that the Government can come in to a school system which is receiving Federal funds and conduct an investigation to insure that Title 6 is being complied with.

Now, the Department of Health, Education and Welfare has attempted to conduct an investigation of Anne Arundel. This is entirely within their legal authority, within the mandate imposed upon the Health, Education and Welfare by law and defendants are legally obligated to comply fully with such an investigation.

This, the defendants have failed to do. The Department of Health, Education and Welfare has attempted to begin an investigation of the Anne Arundel County School System. This investigation is based not only on the Government's obligation to conduct periodic compliance reviews, reviews which are standard procedure throughout the country, but also it involves specific complaints which have been lodged against the defendant school district as well as pertinent statistical data which has been received by the Department and which is now in evidence as Exhibit 1.

The evidence which the Department of Health, Education and Welfare is in possession of indicates that there might, and I emphasize the word might, be discrimination on the basis of race in the administration of student discipline in the Anne Arundel schools.

Department officials are, accordingly, required by law to investigate the situation. On August 21st, 1974, after a lengthy period of discussions and correspondence between the Government and the defendants, an investigation was begun. After providing some information but before the investigators were able to visit a single school, Dr. Anderson wrote a letter stating that the school district regarded the matter as closed.

On September 27th, 1974, Peter E. Holmes, the director of the Office for Civil Rights in the Department of Health, Education and Welfare, wrote Dr. Anderson specifically requesting certain information which was pertinent to ascertain compliance of the school districts with Title 6.

On October 9th, 1974, Dr. Anderson wrote back and said that he rejected all but one of the requests. This was a refusal to comply with the contractual obligation that Dr. Anderson had committed the school district to and on October 17th, 1974, Peter Holmes wrote Dr.

Anderson stating that because of the continued failure of the defendants to comply with the Government's requests, he was going to refer the matter to the Justice Department for enforcement.

The Government has filed a complaint and since the filing of this complaint there has been no indication that the defendants are willing to cooperate with the requested investigation.

The defendants have continued to deny the Government access to the requested sources of information which are outlined in the letter of September 27th, which is Exhibit B. They have denied access to the information which is necessary, which is essential to properly conduct an investigation.

This is a clear breach of the assurances which they signed. The obligation of the Government to investigate is clearly mandated by the law. The contractual obligation of the defendants to cooperate fully with such investigation is equally as clear.

Any further delay of this investigation which has been going on for a long period of time and which is due to the failure of defendants to provide the information, any further delay of this matter cannot be justified. It would only prolong the time in which the rights of the minority students in the Anne Arundel schools remain unprotected.

Therefore, we would submit that the granting of a preliminary injunction is both necessary and proper to a speedy determination of any possible constitutional violations which may be occurring in the Anne Arundel schools.

THE COURT: All right. Counselor?

MR. WOHLGEMUTH: If Your Honor please, one of the last things Mrs. Ver Ploeg said was that unless the Court would grant this preliminary injunction now it would prolong the time that the rights of minority students would be unprotected. It's clear from the correspondence in Exhibit B that these complaints are almost two years old now, I emphasize that point, and the rights of these students whom they don't seem to care about, because in Exhibit B, the letter of 9/27, it outlines their course of investigation and, if you will notice, on Page 1 it says we have these complaints from these, and I hate to be facetious, but it says these poor unprotected children, and then at the bottom of the page he outlines how he is going to make his investigation. He never mentions those complaints again. He talks about getting all of this data. He wants to go to every school in the county and wants to get into all of the records. I think it's a little bit unfair to say these poor unprotected children aren't getting quick -- expeditious interest. We're ready and willing and able to have them finish the investigation of the three, five or whatever. They don't bother with them and it's clear they're using us as -- I'm doing too much arguing, but they are not interested in these complaints. They are using this as a pilot study.

Your Honor has said that maybe unde rules and regulations they have the right to, but we also have the right to demand some action on these complaints. They have been holding these things over our head for a long time.

Now, it's true the superintendent stopped us. He had to. He's got too many people spending too much time on something that's not important. Your Honor has alluded to that.

As far as the contract action, we can argue no meeting of the minds. If that's a contract that says they are entitled to get into individual pupil records, I think they will have a very difficult time seeing them. Nobody has ever asked before to look at them absent the parents' consent.

Your Honor, in addition to the State by-law, I didn't mention it in my original motion to dismiss, there is 76A, the State law which would create a criminal act on his part and I think there is a case pending now where a teacher has allowed this stuff out and it's gotten past the demurrer stage in the Circuit Court level where they are suing an administrator for damages, so there is a possibility that they could be sued.

Now, if Your Honor orders those records to go out, all right. This may happen. I don't want to go into all the lengthy correspondence, but in one of those letters the Government accepted records without names. You see, we don't know what they want. Sometimes they accept it and sometimes they don't accept it.

Your Honor, I guess every woman and every man has the right to change his mind, I guess, but in the Fall of '72, a little over a year ago, they agreed to accept all of this information without any names, but then they changed their mind. They may change their mind again. We hope they would, if they would, we could save a lot of time and trouble.

That's all I have to say.

THE COURT: All right. I will render an oral opinion on this motion with the understanding of the parties that I reserve the right to edit this opinion and add any facts, conditions, citations or additional reasons in support of the conclusions which I'm going to reach, but, of course, not alter the outcome. Is that agreeable to you people?

MRS. DRAPER: Yes.

MRS. VER PLOEG: Yes, sir.

THE COURT: Mr. Ross, particularly.

MR. ROSS: That seems fine, Your Honor.

THE COURT: Okay.

MR. WOHLGEMUTH: Your Honor, I neglected to give you -- I think it was mentioned in chambers, the District Court decision in the Eastern District of Virginia.

THE COURT: In what?

MR. WOHLGEMUTH: Judge Kellam's decision.

THE COURT: I have had that, haven't I?

MR. WOHLGEMUTH: You have?

THE COURT: Haven't I got it?

MR. WOHLGEMUTH: Your Honor, the Alabama case is where one individual came in and wanted to see his records.

THE COURT: We have had both. Give us that one. Yes. Let me see it.

MR. WOHLGEMUTH: I mentioned that in chambers, Your Honor. It's unreported. I think that one of the counsel of record in this case, Stanley Pottinger, was counsel in that case.

THE COURT: Who was?

MR. WOHLGEMUTH: Stanley Pottinger. He's not here.

THE COURT: Where is old Stanley today?

MR. ROSS: He's back in Washington, Your Honor, making up forms for people to fill out.

THE COURT: Oh, he is. I'll bet that's exactly what he is doing, as a matter of fact. It will probably take him the rest of the week. Wait until Internal Revenue gets you guys. I'm telling you.

MRS. VER PLOEG: Your Honor, --

THE COURT: Yes.

MRS. VER PLOEG: -- may I make one additional comment in respect to something Mr. Wohlgemuth has stated?

THE COURT: Sure.

MRS. VER PLOEG: He has contended that the Federal officials are tying up too much time, too many people, too much energy on something that is not important. That simply is not true. Based on the statistics which we have in evidence as Exhibit 1, I would simply point out to you the fact that in the Anne Arundel County School System where there is a minority representation of fourteen per cent, minority students comprised thirty-five per cent of all the suspensions.

Now, if you break those statistics down into particular schools, you will find in several cases that the statistics are even more alarming than that fourteen per cent/thirty-five per cent statistic.

We would submit to the Court that this is not an unimportant matter. We would submit that this is a matter which requires urgent consideration, urgent investigation.

THE COURT: All right. Now, can I go on?

MRS. VER PLOEG: Yes, please.

THE COURT: Is it agreeable with you, counsel?

MR. WOHLGEMUTH: Yes, sir.

THE COURT: There is nothing else you want to give me?

MR. WOHLGEMUTH: Your Honor, do you want to argue that Alabama case?

THE COURT: Sir?

MR. WOHLGEMUTH: Do you want to argue that Alabama case that was cited by Mrs. Ver Ploeg? Is that important?

THE COURT: Is it important?

MR. WOHLGEMUTH: Yes, sir. She cited it and I have a copy of an order. They feel that this is authority.

THE COURT: They did what?

MR. WOHLGEMUTH: They feel that this case is authority for the proposition that they can get into personal records.

THE COURT: I don't think it is, do you?

MR. WOHLGEMUTH: I don't see how it's even relevant.

MRS. VER PLOEG: Your Honor, we have stated on several occasions that we do not regard this case as binding authority. It was included as some kind of precedent as applicable reasoning. We offer this to aid the Court in its decision.

THE COURT: All right. Okay. Now, can I go on?

MRS. VER PLOEG: Please do.

THE COURT: Mr. Ross?

MR. ROSS: Yes, sir.

THE COURT: I have already gotten consent to the fact that I can add additional citations, edit, add additional facts, but not change my conclusions. That's where I was when you all thought there were some additional things you wished me to consider, right?

MR. WOHLGEMUTH: Yes, sir.

THE COURT: All right.

Plaintiff brings this action, pendente lite, to secure a preliminary injunction preventing defendants from further withholding access to certain information which, allegedly, is necessary to ascertain defendants' compliance with Title 6 of the Civil Rights Act of 1964.

The guidelines for the granting or denial of such motions are well set forth in the case of Crowther versus Seaborg, 415 F 2d 437, 439 (10th Circuit 1969), wherein it was stated, "In hearings upon motions for temporary or preliminary injunctive relief, the burden is upon the one requesting such relief to make a prima facie case showing a reasonable probability that he will ultimately be entitled to the relief sought. The applicant has the additional burden of showing a right to the specific injunctive relief sought because of irreparable injury that will result if the injunction is not granted. There must exist a probable right and a probable danger."

In the view of this Court, neither of these two criteria are satisfied by the instant motion. As Judge Chestnut once noted, when he sat on the Court of Appeals for the Fourth Circuit, "The purpose of the preliminary injunction is to preserve the status quo until the rights of the parties can be fairly and fully investigated." Sinclair Refining Company versus Midland Oil Company, 55 F 2d 42, [illegible] (4th Circuit case).

Looking first at the requirement of irreparable harm, denial of the request for preliminary injunction is proper unless such action would allow such a change in the status quo of the Anne Arundel County School System as to result in irreparable injury to the minority students whom plaintiff seeks to protect. Ohio Oil Company versus Conway, 49 Supreme Court 256 (1929); Love versus Atchison, 185 Federal 321, an Eighth Circuit 1911 case.

Nothing in the facts alleged by plaintiff persuades me that the status quo will be irreparably altered by the denial of plaintiff's motion. This matter has gone on for two years and, as the defendant has pointed out, no effort has been made by HEW to pursue the several individual complaint cases.

The majority of HEW's time has been allocated to what they term "a pilot program."

Certainly, the passage of more than a year without specific follow-up by plaintiff on the three original complaints of discrimination indicates something less than irreparable urgency as to the harm allegedly being suffered by students of the Anne Arundel School System. Nor do the plaintiffs assert facts to the contrary. Rather, in their brief, plaintiffs rely on the argument that irreparable injury can be presumed when significant violations of the Civil Rights Act of 1964 are indicated, citing United States versus Hayes International Corporation, 415 F 2d 1038, a Fifth Circuit case, and Henry versus Greenville Airport Commission, 284 F 2d 631, a Fourth Circuit 1960 case, in support of this proposition.

However, neither of these two cases, cited by plaintiff, are apposite to the action at bar. In Hayes, the Court expressly limited its by-passing of the irreparable injury prerequisite to situations where "injunction is authorized by statute and the statutory conditions are satisfied." 415 F 2d at 1045. In Greenville, the ruling that the District Court had no discretion to deny relief by preliminary injunction was limited to a plaintiff who "clearly establishes by undisputed evidence that he is being denied a constitutional right." In the case at bar, the evidence is not undisputed, nor is violation of a constitutional right being alleged, the complaint being based on Title 5 of the Civil Rights Act of 1964.

In sum, the plaintiff shows no particular reason why the relief requested would be more appropriately granted through a preliminary injunction than through a full hearing and adjudication on the merits. As the Court stated in [illegible] versus Western Printing, 112 F 2d 430, at 431, a Seventh Circuit 1940 case, "Consequently, where the granting of a preliminary injunction would give to a plaintiff all the actual advantage which could be obtained by the plaintiff as a result of a final adjudication of the controversy in favor of the plaintiff, a motion for preliminary injunction ordinarily should be denied."

While failure to satisfy the requirement of irreparable injury would, in itself, be sufficient reason for the denial of a preliminary injunction, it is appropriate at this time to articulate, as a supplementary ground for denial of the motion, plaintiff's likelihood of prevailing on the merits.

The purpose of the regulations at 45 CFR, Section 80, et seq. is to effectuate compliance with Title 6 of the Civil Rights Act of 1964. To this end, HEW has drafted provisions for broad and comprehensive investigations of all possible deviations from the non-discrimination mandate of Title 6.

Pursuant to these regulations, HEW has filed the instant action, requesting what amounts to unconditional discovery privileges within the Anne Arundel School System.

In the view of this Court, HEW does not have an unconditional right to acquire in any manner, at any time, whatever information it desires from a school system which has become subject to its regulations by virtue of Federal financing.

I reach this conclusion notwithstanding the contrary language in the case of United States versus State of Alabama, Department of Pensions and Security, Civil Action No. 4154-N, District of Alabama, decided August 24, 1973.

HEW's authority for promulgating the regulations upon which this action is based, 45 CFR, Section 80, et seq., is derived entirely from Section 602 of Title 6, 42 U.S.C., Section 2000D-1.

The briefing of this case by both parties has completely overlooked the controlling limitation which Congress placed on HEW's rule-making power under Title 6. Section 602 reads in part as follows:

"Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract, is authorized and directed to effectuate the provisions of Section 2000D of this Title with respect to such program or activity by issuing rule, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken."

I emphasize at this point, that not only the regulations as written, but also the regulations as applied to the facts of a particular case, must be "consistent with achievement of the objectives of the statute authorizing financial assistance."

In Manhatten General Equipment Company versus Commissioner, 56 S. Ct. 397, 400 (1936), the Supreme Court stated:

"The power of an administrative officer or board to administer a Federal statute and to prescribe rules and regulations to that end is not the power to make law for no such power can be delegated by Congress, but the power to adopt regulations to carry into effect the will of Congress as expressed by the statute. A regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity."

As applied to the instant case, the Supreme Court's holding in Manhattan requires that the operation of HEW's regulations be in harmony with achievement of the educational objectives behind the statute by which Federal financial assistance is authorized for the Anne Arundel School System.

In order to save HEW's regulations from a pronouncement of invalidity, it is essential that the operation of 45 CFR, Section 80, et seq., harmonize with the objective of effectively advancing the educational abilities of the school system. As the Supreme Court stated in Manhattan, supra, "A regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity."

In the view of this Court, the aggressive manner in which HEW has applied its regulations in seeking from officials and teachers of the Anne Arundel School System interviews, reports, and the production on short notice of vast amounts of other information has dampened the ability and resources of defendants to carry out their principal task, namely, the effective education of the youth of Anne Arundel County. While HEW is certainly entitled to all pertinent information necessary for a determination of compliance with Title 6, this information must be obtained in a cooperative manner, "consistent with achievement of the educational objective of the statute authorizing financial assistance" to the school system. 42 U.S.C., Section 2000D-1.

To this end, I am going to pass this order: That all parties to this action sit down together and work out in a cooperative manner, a reasonable timetable and reasonable procedures whereby plaintiffs can obtain all information pertinent to their compliance investigation without further disrupting or impeding the ability of defendants to carry out their primary responsibility as administrators of an effective and non-discriminatory educational system.

I'm going to deny the motion for the issuance of a preliminary injunction and I will sign an order, however, directing the School Board to furnish the information which they now feel is confidential in order to obviate any necessity or any fear on the part of the members of that Board or Mr. Anderson or to whoever has custody of these documents that he might be subject to any criminal or civil prosecution in the State Courts.

I also say that I will sign an order in this connection defining the parameters of the discovery to be conducted by HEW in reference to the Anne Arundel School System after you people have gotten together and made a determination as to what further documents are necessary in order to effectuate the "pilot program" in that school system and to reach a resolution of the individual complaints.

Now, I say this because of the reason that I think this thing has gone on too far. I think both HEW and Anne Arundel School System have been playing a game with each other and that is, of course, indicated by the situation.

I merely remark in reference to the so-called financial assistance program of the Federal Government that it has been the fault of the States and the Congress of the United States in implementing programs of this kind and I think that they have gone far beyond their usefulness in many ways. Unfortunately, the situation exists and unfortunately the State is bound to regulations imposed by the Federal Government in connection with any financial assistance that they might receive. The taxpayers of Maryland, for example, pay much more into the Federal Government than they get in assistance from the Federal Government and they pay a great deal, of course, to their State Government and to their State educational system. Maryland receives less financial assistance from the Federal Government than most other states.

Furthermore, the State of Maryland's proximity to the District of Columbia is unfortunate, for it appears that these federal agencies are using this State as a laboratory. I would think that the Congressional representatives who have something to do with this should consider calling a halt to this matter. Both the State Government of Maryland and the County Governments of Maryland are constantly being investigated back and forth and up and down by Federal people who come here just because it is geographically more convenient. Since the matter of financial assistance in reference to their travel has been curtailed and the President vetoed the Act which would give them a little more money, they are probably going to use this State more and more. Any action taken by any Department of the Government must be consistent with the Congressional intent.

Counsel for Anne Arundel County has clearly indicated here today as he has in the past that he will abide by any order of this Court that would be necessary to protect his people from any action that might be taken by the State or the County, both criminal and civil, in reference to the production of documents necessary to carry out the compliance provisions of Title 6.

Regarding the individual complaints that have been allegedly made here, I agree with the Anne Arundel people, that HEW's appears in no way particularly interested in pursuing them.

There seems to be a contractual agreement between the Government and the County to do the pilot program. I think that the Anne Arundel people are entitled to have the investigation proceed so that it will further the educational system of Anne Arundel County.

I see no reason why people should be importuned constantly to make out all kinds of forms and spend so much of their time in that endeavor when their fundamental purpose is to educate the children.

Now, do you think you people can get together and work something out? Whatever orders are necessary, I will sign.

MR. WOHLGEMUTH: Well, Your Honor, it's a little bit vague on what orders you might want

THE COURT: Well, I think as we discussed it before, and I don't think this need be on the record.

(Discussion off the record.)

THE BAILIFF: Please rise. [illegible] Court stands recessed until 2:00 P.M.

(Thereupon, Court recessed at 11:30 o'clock A.M.)

* * * * * * * * * * *

I hereby certify that the foregoing is a true and accurate edited transcript of the proceedings in the aforementioned case.

Edward Richardson

E. EDWARD RICHARDSON
Official Court Reporter
301 United States Court House
111 North Calvert Street
Baltimore, Maryland 21202
539-0[illegible]

Senator BEALL. The next witnesses are from the State of Maryland Task Force.

Dr. Allison and Mr. Morton, we are happy to have you with us, and you may proceed with your testimony.

STATEMENTS OF DR. HOWARD C. ALLISON, ASSISTANT STATE SUPERINTENDENT, MARYLAND STATE DEPARTMENT OF EDUCATION, AND CHAIRMAN OF THE TASK FORCE; AND JOSEPH H. MORTON, REGIONAL COORDINATOR, MARYLAND STATE DEPARTMENT OF EDUCATION TASK FORCE

Mr. ALLISON. Mr. Chairman, as has already been established in earlier testimony, the Maryland State Board of Education did appoint a task force to investigate the charges of discrimination and student disciplinary practices in the Anne Arundel County School system.

The task force members were selected by the board. I was appointed as chairman. Mr. Morton was appointed as vice chairman.

Mr. DeCosta, a practicing attorney in the city of Baltimore, was the third member of the team.

I think it might be of some value to you, Senator, if we established the fact that each of the three task force members has had some previous experience in investigations of this sort and some previous experience in civil rights matters.

Mr. DeCosta, while serving as assistant attorney general, and I played a role in resolving a conflict between the then office, title IV, Civil Rights Office, and a local school system in Maryland in 1967.

Mr. Morton has had experience as an investigator in related matters while serving in the U.S. Army.

I think it interesting to note further Mr. Morton himself has been a principal in a case involving discrimination in hiring practice, so I think that we are not totally unfamiliar with such things.

I say that because it has come to our attention that some feel we might have been terribly naive.

As we entered into our investigation, we had an opportunity to meet with school officials in Anne Arundel County, and identify the scope of the investigation that we intended to conduct.

I do not intend to read this report to you, Senator. You have it before you, and it may be entered into the record.

Senator BEALL. We will put it in the record.

[The report referred to follows:]

TASK FORCE REPORT OF CHARGES OF DISCRIMINATION IN STUDENT DISCIPLINARY PRACTICES IN THE ANNE ARUNDEL COUNTY SCHOOL SYSTEM

Submitted to the State Board of Education
February 28, 1975

Task Force Members:

Howard C. Allison, Chairman
Joseph H. Morton, Vice-Chairman
Frank DeCosta, Esquire

TASK FORCE REPORT OF CHARGES OF DISCRIMINATION IN STUDENT DISCIPLINARY PRACTICES IN THE ANNE ARUNDEL COUNTY SCHOOL SYSTEM

The Maryland State Board of Education, at its regularly scheduled meeting on November 27, 1974, appointed a task force to investigate charges that student discipline was being administered in a manner that discriminated against Black students in the public schools of Anne Arundel County. This action was taken after a careful review of the interaction between the Anne Arundel County School System and the U.S. Department of Health, Education, and Welfare, Office of Civil Rights, regarding the matter. It had become evident that those two agencies had come to impasse; therefore, the State Board of Education following consultation with the Governor initiated this investigation in an attempt to cause the issue to be resolved.

Scope of the Investigation

The Task Force members, after reviewing voluminous correspondence which had been exchanged between the Anne Arundel County School System and the Office of Civil Rights, and conferring with the Anne Arundel County Superintendent of Schools, determined that the scope of the investigation would be:

I. Exploration of the specific complaints of parents alleging discriminatory practices in student discipline in the Anne Arundel County School System;

II. Investigation of referral of students to the Anne Arundel Learning Center;

III. Examination of student withdrawals to determine if there is racial differentiation;

IV. Investigation of the broader topic of differential disciplinary practices between races in the Anne Arundel County School System (as might be related to institutional discrimination); and

V. Development of recommendations for human relations programming and/or educational programming to alleviate real or perceived problems.

In addition to establishing the scope of the investigation, the Task Force members established the following guidelines for the conduct of the investigation:

1. Individual pupil records would be examined by the two Task Force members who were staff members of the Maryland State Department of Education;
2. Parental consent would be obtained when individual pupil records were examined;
3. The Deputy Superintendent would be requested to coordinate all contacts with the school personnel;
4. All persons interviewed would be advised that they may have present anyone they wished during the interview; and
5. Individuals interviewed would have an opportunity to review a copy of the notes taken during the interview so that it could be determined whether the statements contained therein were accurate.

I. Specific Complaints

Two specific complaints were filed by Black parents with the Philadelphia Regional Office of the U.S. Department of Health, Education, and Welfare during the spring and summer of 1974. In each case, the complainant alleged that a Black student had been unfairly disciplined because of his race.

Case 1. The first specific complaint was registered on May 1, 1974 by a mother in behalf of her son. The mother, in her letter of complaint alleged that her son had been discriminated against in being suspended from school on several occasions.

The complainant was interviewed by two Task Force members at her home with her mother and aunt present during the interview. During the interview, the complainant recounted her son's school experiences from elementary school to the present. She cited several incidents in which her son had gotten into trouble in school for fighting; however, she defended his actions by saying that he was retaliating against others who antagonized him by calling him dumb and retarded.

The complainant related that her son continued to be involved in fighting incidents in junior high school. She indicated that he had been transferred from one junior high school to another as a result of misconduct and that he had twice been entered in the Anne Arundel Learning Center as a result of being put out of the regular school as a serious behavior problem.

The complainant stated that the last time her son was suspended prior to entering the Learning Center he was charged with being involved in an incident in which several Black students attacked a white student. She said that none of the other students were suspended.

The complainant expressed negative feelings toward several administrators whom she felt had not been understanding of her son's problems, and who had treated him harshly. She was especially critical of the special assistant to the superintendent who investigated cases of serious overt behavior problems. In contrast to the negative feelings she expressed toward most administrators, the mother was quite supportive and complimentary in speaking of the principal of the Learning Center and the program conducted at the Learning Center.

The Task Force members examined the school records of the son and confirmed that the youngster had a long history of behavior problems dating back to the elementary school years. Many of the incidents involved rather violent behavior and fighting with other students, both Black and white. The documentation of the behavior exhibited in each instance appeared to provide very adequate justification for the disciplinary action taken.

The record makes it evident that the school system did indeed expend considerable effort in attempting to provide assistance to the student in overcoming his problems. It is impressive to note the extent to which psychiatric, psychological, and pupil personnel resources were provided to the student.

It was apparent that the complainant was unaware of the fact that other students involved in incidents with her son were disciplined when the facts justified such action. For example, although the complainant said that none of the other boys involved in the assault on a white student were suspended, the fact is that all but one student, who was determined not to be directly involved, were suspended. Also, the Task Force members discovered that at the time of the assault the son was under suspension and was thus illegally on school grounds.

Additional information was collected through interviewing staff members of Bates Junior High School, Annapolis Junior High School, and the Anne Arundel Learning Center. The data thus collected corroborated the written record.

The Task Force concludes that there is no evidence to support the claim of discriminatory treatment in this case.

Case 2. The second specific complaint was filed on June 13, 1974 by a Black father in behalf of his son. The father first made his complaint during a telephone conversation with a staff member in the Philadelphia Regional Office of the U.S. Department of Health, Education, and Welfare. The complainant charged that his son was suspended from school for reasons that he considered to be trivial and that he felt that his son had been unjustly suspended because of his race.

The complainant was interviewed by two Task Force members on December 9, 1974 at the Annapolis Hilton Hotel. He stated that he felt that at least two of his son's teachers had discriminated against him resulting in his suspension for minor infractions. He said he had visited the school to visit his son's classes and that he felt that the two teachers did treat his son differently than they treated other students. He complained that his son was suspended without adequate warning and that the school had not informed the home that the child had been having behavior problems prior to the suspension. He expressed dissatisfaction with the conference which was conducted prior to his son's reinstatement to school and felt that some of the staff were possibly expressing racist attitudes toward him.

The complainant went on to describe a more recent incident in which his son was suspended for fighting with a white student. During the fight his son kicked the white student in the face; therefore, the case was referred to the special assistant to the superintendent for investigation. The complainant expressed dissatisfaction with the manner in which the school conducted the preliminary investigation of the incident. He alleged that only white students were interviewed and that statements were not taken from two Black students who were present because they would be unreliable. He stated further that he felt that the action of referring the matter to Juvenile Services was too drastic.

The complainant related that his son had been harrassed by another student who was a friend of the white student involved in the incident described above and that his son had been reprimanded but the boy harrassing his son had not been reprimanded.

The Task Force members examined the records of the complainant's son and found that six letters indicating unacceptable behavior had been sent to the home prior to the student's first suspension. Interviews with staff revealed that the complainant's wife had admitted that she had received the warning letters but had not told her husband about them.

Examination of the report of the investigation related to the more recent suspension for alleged assault revealed that the special assistant to the superintendent interviewed six student witnesses, four Black and two white. This refutes the complainant's assertion that only white witnesses were interviewed. The statements taken from the six students clearly establish the fact that the complainant's son was the aggressor in the incident and thathe did indeed kick the white student in the face.

The Task Force members reviewed the record of the white student identified by the complainant as having harrassed his son. In the case of the specific incident described by the complainant it was found that both students received exactly the same treatment and that identical letters concerning the incident were sent to both sets of parents. In addition, the Task Force members discovered that the white student had been suspended following six letters to the home indicating unacceptable behavior, thus establishing a parallel with the action taken toward the complainant's son.

The Task Force concludes that there is no evidence to support the claim of discrimination in this case.

II. Anne Arundel Learning Center

The Task Force decided to examine the referral of students to the Learning Center as a result of concerns expressed during discussion with staff members of the Office of Civil Rights. The notion that referral to the Learning Center might be being used as a discriminatory measure to remove minority children from regular school programs seemed to be implicit in comments made during a meeting held in the Office of Civil Rights.

Two Task Force members visited the Learning Center to observe the program and discuss its objectives with the principal. The Learning Center program relies heavily on behavior modification to bring about change in students with the ultimate aim of making it possible for the student to adjust to a regular school setting. Available information, though not as precise as might be desirable, appears to indicate a success rate of about sixty percent in attaining this objective. This is a remarkable achievement when one considers that students are enrolled in the Learning Center only if they have manifested behavior so severe that they must be excluded from participation in a regular school program.

It is the opinion of the Task Force that the Learning Center and the conceptual framework on which it is based is certainly one of the most commendable programs being operated within the Anne Arundel County School System. The Task Force members are not aware of any program of this nature, designed to give a "second chance" to students with severe behavior problems, which enjoys such a high rate of success.

The fact that a higher proportion of Black than of white students as compared to total school system population, is referred to the Learning Center is not a matter of dispute. This cannot be viewed on its face as evidence of discrimination. To the contrary, it should be viewed as evidence of the school system's desire to provide this important rehabilitative service to those students who exhibit serious behavior problems without regard to race.

The Task Force concludes that any implication that referral to the Learning Center is used in a discriminatory manner is without merit.

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* It should be noted that the student involved in Case 1 of the specific complaints was enrolled in the Learning Center. He has since been reinstated to a regular school program and is making satisfactory progress in terms of both his academic and behavioral adjustment.

III. Push Out Theory

(Racial Discrimination in Withdrawals)

It has been hypothesized in some quarters that Black students are being "pushed out" of school. That is, Black students are being suspended unfairly, and as a result are opting to withdraw from school, rather than continue to be enrolled in the public schools.

The Task Force examined data related to withdrawal of minority students who had experienced multiple suspensions in the Anne Arundel County School System. It was determined that within all multiple suspensions, 254 Black students were suspended two or more times for a total of 686 suspensions, and 407 white students were suspended two or more times for a total of 1,033 suspensions. A comparison was made of students who were suspended two or more times to every student who withdrew from Anne Arundel County School System during 1973-74. The results revealed that fifteen Black students who were suspended on two or more occasions withdrew, while 34 white students who were suspended on two or more occasions withdrew. On the basis of the Dallas Court Case and upon the advise of an independent statistical expert, a chi square test of independence was run. The results of the chi square thus obtained was 1.3657 and the critical value was 3.84; thus, the hypothesis that there was a statistically significant difference in the frequency of rates of withdrawal was rejected. Therefore, the Task Force concludes that the "push out" theory seems to be without basis in the data.

IV. Institutional Discrimination

A general complaint was lodged with the U.S. Department of Health, Education, and Welfare, Philadelphia Regional Office, which appeared to imply institutional discrimination directed toward minority students in the Anne Arundel County School System. The complaint was contained in an undated letter which was stamped received in the Philadelphia Office on May 21, 1973.

The Task Force examined the correspondence between the school system and the Philadelphia Regional Office and found that the general nature of the complaint had made it difficult to generate definitive responses since the complaint was lacking in specificity. Due to the fact that some nineteen months had elapsed since the initiation of the general complaint, the Task Force felt that attempting to seek specifics so far after the fact could only result in an exercise in futility. Therefore, the Task Force placed rather heavy reliance on secondary data sources.

This decision was based on the Task Force findings with regard to the specific complaints which had been investigated through examination of primary data sources and analysis of student suspension data.

Examination of the raw data on student suspensions for the school year 1973-74 in the Anne Arundel County School System revealed that there was a statistically significantly higher frequency of Black students than white students suspended; however, it is well recognized that statistical significance of this nature does not in and of itself prove discrimination. The statistical analysis of the suspension data produced by the school system and reviewed and verified by an independent statistical expert may be interpreted as demonstrating only a weak trend in the data. The inferences drawn from such analysis are inconclusive.

The Task Force, while unable to offer firm conclusions with regard to the issue of institutional discrimination, does not feel that the expenditure of massive staff resources applied to any further investigation of primary data sources would prove to be much more productive or conclusive. Moreover, the data do not appear to warrant a more stringent investigation at this time.

It appears to the Task Force that regardless of the strength or weakness of the findings of any study of this matter, there would remain the perception on the part of many people in Anne Arundel County that discrimination did exist in various facets of the school system's operation. With regard to the specific issue of student discipline for example, the Task Force became aware of the fact that many white parents were of the opinion that Black students could "get away with" behavior for which white students would be severely disciplined, while many Black parents felt that Black students were always treated much more harshly than white students involved in similar incidents of misconduct.

It does appear that there is a general lack of trust between a significant number of Black parents and the school officials. A part of this arises from the fact that many Black parents simply are not aware of school policies. They tend to accept school actions, but do not understand them. School officials, for the most part, do not seem to be as aware of this problem as one might hope. It seems to the Task Force that school officials are too reliant on the fact that school policies are printed, thus it is felt that all parents know and understand them.

The Task Force learned that some Black parents are hesitant to visit the schools because they feel that school administrators have a tendency to talk down to them. It was reported that when Black parents do go to the school for a conference concerning their children they often feel overwhelmed because of their difficulty in communication and because they are frequently outnumbered by school staff in the conference.

The school system has encouraged the development of community participation in schools through the formation of community advisory committees. However, the feeling is expressed by school personnel and community members alike that the success of these committees varies widely from school to school, and is often quite limited. The same sort of perception is reported when the advisory body for ESA is discussed. In fact, some board members state in rather strong terms that the advisory group has been ineffective in bringing about change directly addressing the human relations concerns which should be a part of an ESA program.

In summary, the Task Force became keenly aware that many Black parents perceive the school system as being insensitive to their feelings and unaware of the needs of their children; moreover, the Task Force is of the opinion that school officials do not seem to be as aware of these perceptions as they should be.

V. Observations and Recommendations

A. School Based Human Relations Program

The Anne Arundel County School System is making a serious effort to develop programs designed to provide improved educational opportunities to all students, and to bring about improved human relations in the schools. The Task Force reviewed evidence of human relations workshops which have been conducted for administrators and teachers. Additional workshops are being planned for the summer of 1975. Since each school has a human relations committee, it is recommended that each workshop give attention to developing a plan for ensuring that the workshop participants feed into their respective school's human relations committee the program ideas gained through participating in the workshop.

It is further recommended that an evaluative design be developed to enable the school system to determine the effectiveness of the programs which are conducted.

B. Community Based Human Relations Program

Some schools in the system have had outstanding success in developing strong community relations programs. Tyler Heights Elementary School provides one example of how an effective dialogue can be developed between the school and the community. Another model of an excellent community based program is to be found at Brooklyn Park Elementary School. While the effective programs differ somewhat in format, they do seem to possess one common element -- a dedicated principal who believes in and respects people. It is recommended that each school principal be charged with the responsibility of developing and implementing plans for getting into the community to talk with parents and make them feel wanted. As one principal told the Task Force, "You have to make a person feel wanted and needed to get parent participation."

Also, it is recommended that the school system review the objectives of the several ESA projects being conducted within the system. It may be that the current projects tend to focus too specifically on academic objectives and not enough on human relations objectives.

C. Educational Program Activity

Some schools in the system have started to utilize behavior modification techniques in the instructional program. One result of this is the placing of greater emphasis on positive student behaviors. The schools, as part of the reward system associated with the technique, are increasing contacts with parents to tell them about their children's success. It is recommended that consideration be given to encouraging this practice as a means of developing more positive relationships with parents.

The school system is giving considerable attention to the development of alternative educational programs for students with behavior problems and unmet educational needs. The most outstanding example of such a program is the one conducted at the Learning Center; however, work is proceeding on additional programs to be conducted in the regular school setting. The Task Force encourages the continuation of these efforts.

D. Policy and Organizational Considerations

The school officials are studying the use made of suspensions with the intent of reducing suspensions. Since the purpose of a suspension is not punitive, but rather to change behavior, the school officials are attempting to find ways of ensuring that the parent and the student are aware of what behavior is desired. It is recommended that this study be continued and that suspensions for tardiness and truancy be eliminated since they would seem merely to reinforce undesired behavior.

The school system does have several very capable Black administrators. The Task Force recommends that the school system continue to recruit and promote Blacks for administrative positions. Also, it is recommended that the school system make more effective utilization of Black staff members in communicating with the Black community — this does not mean nor should it be interpreted to imply that only Blacks can talk to other Blacks.

Several administrators in the school system expressed the opinion that existing statute or bylaw prohibited a parent from being accompanied by anyone other than legal counsel when attending a disciplinary conference. At the same time, some parents reported that they were uncomfortable in participating in such conferences alone. The Task Force review of existing statute and bylaw did not uncover any basis for the prohibition which the school administrators felt existed: therefore, it is recommended that parents be made aware of the fact that they may bring with them to disciplinary conferences whomever they wish in order that they may be made to feel more comfortable in the situation.

The school system has had an office of community affairs for the past six years. The Task Force is of the opinion that the functions of this office may be defined too narrowly. It is recommended that the school system review the functions of the office of community affairs and give consideration to providing that it have a stronger role in the overall human relations effort of the school system.

In conclusion, the Task Force wishes to reiterate the view that the school system should place an increased emphasis on effective person-to-person contacts emanating from the school building level in an effort to alter imperfect perceptions held by parents regarding the schools. It is unlikely that parents can really be made aware of school policies and procedures, educational program objectives, and the school system's efforts to work positively on behavior problems unless school building personnel go directly into the communities being served to establish a continuing dialogue with the patrons of the school.

Mr. **Allison**. Having identified the scope of the investigation, the task force members established the guidelines that would be used as we conducted our investigation. We were quite aware of a concern, not just of the superintendent of schools in Anne Arundel County, but the concern of many people in our State and across the Nation with regard to confidentiality of student records.

We had in recent months a number of contacts from the public about entering into individual records by different kinds of investigating bodies, some for pure research purposes.

With that in mind, we attempted to keep a very low profile as we entered into the investigation, and we agreed with the notion that this is an area in which there is great concern. Therefore, we sought parental consent to enter into all the records that we did examine.

Senator **Beall**. Did all the parents agree?

Mr. **Allison**. No, sir, they did not. We had a couple of refusals.

We were able to get enough that we could conduct the investigation as we saw fit.

We chose to pursue the matter by first looking into the two specific complaints that had been filed in the late spring and summer of 1974 The information on those cases was fairly recent. We could get to the individuals concerned while there was still some recollection in the minds of persons involved to just what had happened or what had been perceived.

One of those complaints was registered on May 1, 1974, in a letter addressed, I believe, to the Philadelphia office.

The other complaint was filed, according to our information, on June 13, 1974, by a father on behalf of his son, and that complaint was, as we understand it, first made in a telephone conversation with a staff member in the Philadelphia regional office.

We followed through on those two cases, interviewing the complainant, interviewing schoolteachers, going into student records, and in both cases we did not find justification for the complaint.

We felt that there was just no evidence to support the claim of discriminatory treatment in either of those two specific cases.

The more general complaint that was filed—and there is some discrepancy in dates—what we have is an undated letter that was stamped received in the Philadelphia office on May 21, 1973.

Senator **Beall**. That is the one I have.

Mr. **Allison**. We examined correspondence between the Philadelphia regional office and the school system concerning that general complaint, and we did have access to the response that was signed by Dr. Alsobrook.

We were struck by the lack of specificity and the difficulty that one would have in responding to such general complaints. This was some 19 months after the complaint now by the time we had entered our investigation, and we felt that attempting to seek specifics so far after the fact could only be an exercise in futility.

Moreover, we did not have specific identification of some of the individual children to pursue it.

We also based our decision, in part, on the fact that the specific complaints had been investigated through primary data sources which did not give evidence which should be alarming to us, although I quite agree with Mr. Holmes that I do not think that is a prerequisite to such an investigation.

I think the other reason underlying the decision is one that is open to dispute because it goes back to analysis of statistical data and, depending upon the statistical analysis that is employed, I think one can make a stronger or weaker case.

In my opinion—and I do not claim to be an expert in statistics; therefore, I am bothered somewhat by the comments, but there was a statistical expert who verified the analysis—the statistical tools that were used in the analysis make it appear that there is only a weak trend in the data, indicating the differences between black and white suspension rates.

If one uses some other statistical tools, it will have the appearance of a stronger trend.

I think I am impressed with the evidence put forth by some statistician that the first application is by a coefficient of greater applicability in this particular instance, and I would attempt to respond to questions along this line, but admit my lack of expertise in it.

We also looked at the learning center. We went to the learning center specifically as a result of some concern that was expressed to us during discussion with staff members of the office of civil rights.

I must say we were impressed very favorably with the learning center. We spoke with the principal, with staff, with students there. We did not see evidence of discrimination in the manner in which the learning center was operated.

We feel it is really such a commendable effort that, at all costs, one should attempt to avoid any disruption of that program.

That, in very brief form, Senator, are our remarks about the investigation.

Mr. Morton and I will both be happy to respond to questioning.

Senator BEALL. How long did this investigation take you?

Mr. ALLISON. We started the investigation on or about the 6th of December and concluded it by mid-February, and submitted our report at the February 28 meeting of the Board of Education.

Senator BEALL. A little over 2½ months?

Mr. ALLISON. Yes, nearly 3 full months.

Senator BEALL. You investigated the two specific complaints that were referred to earlier in 1973?

Mr. ALLISON. That is correct.

Senator BEALL. You found those to be invalid complaints? You found no basis to the complaints?

Mr. ALLISON. That is correct.

Senator BEALL. You did not investigate the general complaint that was received in 1974?

Mr. ALLISON. We did not.

Senator BEALL. The reason for that was that too much time had elapsed?

Mr. ALLISON. We felt too much time had elapsed to investigate a complaint couched in such general language. It would have been a difficult task at the outset.

Senator BEALL. Do you think it could have been investigated had it been received in timely fashion?

Mr. ALLISON. Perhaps with a considerable amount of additional field work so that one could adequately identify the students in whose behalf the complaints were being registered.

There was considerable difficulty there from the material we saw, at least.

Senator BEALL. Did you have any difficulty with the school system in the conduct of the investigation?

Mr. ALLISON. No, sir, we did not.

We were given access to all of the documents that we asked for. There was no interference whatsoever. In fact, there was assistance rendered in making appointments for us with whomever we asked to speak.

Senator BEALL. Did you find some things wrong?

Mr. ALLISON. Sir, I think one of the things that we found is the perception on the part of many members in the community, particularly minority members in the community, that school system officials are not sensitive to the needs of their children.

Many of the persons from the minority community feel that the school system is unaware of the needs of their children.

So long as these perceptions exist, I think there is need for a great deal of work in trying to bring about some common understanding among the community members and the school system people.

But certainly the perception must be changed.

Senator BEALL. Has the county responded to this?

Mr. ALLISON. Yes, sir.

We set forth a series of observations and recommendations, and we have, since that time, returned to the county. Mr. Morton and I were in Dr. Anderson's office—I forget the exact date—but 5 or 6 weeks following the issuance of the report, to inquire into what kinds of actions were being taken.

We found that while there had already been serious efforts in development of human relations programs in the county, those efforts had been intensified; a new coordinator of human relations had been identified, and he is either on the job or about to become on the job.

An effort is being made to get more of the building principals involved in community contact programs. The approach to dealing with suspensions is continuing toward some way of more effectively assisting children.

The superintendent told us of some steps that he has already taken to insure that in each school building the administrators in charge have taken every possible step prior to suspension, and there is consideration being given to eliminating some of the reasons for suspension that might formerly have existed.

Senator BEALL. Mr. Morton, you may speak out any time you wish.

Mr. MORTON. I was just stating also, in talking to Dr. Anderson on the evening that we had indicated, some of the redirections of some of the efforts regarding the human relations specialist. It was also indicated this person would definitely not deal only with racial matters but this person would have specific responsibility regarding human relations in the county.

Senator BEALL. There has been an implication through all of this that the school system in Anne Arundel County, as a matter of fact school systems elsewhere, might be guilty of second generation discrimination.

In the course of your investigation, did you find any evidence that would support or refute this charge in Anne Arundel County?

As a result of your investigation, would you recommend there be an investigation of second generation discrimination?

Mr. ALLISON. If, by second generation discrimination, you are referring to the imbalance which might result in the so-called pushout theory, am I correct in that?

Senator BEALL. Yes.

Mr. ALLISON. We did speak to that, Mr. Chairman, in our report. And based on a statistical analysis again, we concluded the pushout theory seemed to be without basis in fact.

The perception that I have as a result of our being in the school system, talking with educators, is that there is great concern for all students. That is the perception I came away with.

Mr. Morton may care to add his thinking to that, as to whether or not he shares that perception.

Mr. MORTON. I have no comment.

Senator BEALL. Thank you very much, gentlemen.

Our next witnesses are Carl Snowden, Samuel Gilmer and Johnnie Stubbs, who are here on behalf of the Coalition for Justice.

Mr. Snowden, as you may have observed, our other witnesses have spoken extemporaneously and put their testimony in the record.

If you prefer to do that, you may do so.

STATEMENTS OF CARL SNOWDEN, CHAIRPERSON, SAMUEL GILMER, JOHNNIE STUBBS, AND GLENDA NEAL, A COALITION FOR JUSTICE PANEL

Mr. SNOWDEN. Mr. Chairman, first of all, we would like to thank you for giving us the opportunity to be here, and before we get started I would like to briefly tell you what the coalition for justice is.

The coalition for justice is the group of—or coalition of civil rights groups that came together specifically to see that black parents, or those who have made complaints in regard to the Anne Arundel County school system, are assured their complaints will be heard.

The coalition for justice represents the following civil rights groups: The coalition, which is a citizen-based organization; the parents association, which is the organization that originally filed the complaint May 17, 1973; also it represents the Anne Arundel County Chapter of the Southern Christian Leadership Conference, which was another organization which was one of the original complainants, and also it represents the National Association for the Advancement of Colored People, which is again an Anne Arundel County chapter. It also represents parents and students who are very much concerned with this particular matter.

Senator BEALL. Would you introduce those who are accompanying you?

Mr. SNOWDEN. To my right is Mr. Johnnie Stubbs. To my left is Samuel Gilmer. And to his left is Miss Glenda Neal.

Senator BEALL. Are they representing the same groups?

Mr. SNOWDEN. They are representing the coalition for justice, which represents the organizations that I spoke of earlier.

Mr. Chairman, we, the members of the coalition for justice, are attempting to have the complaints of parents and students addressed.

We recognize that it has been nearly 2 years since black parents and students initially filed complaints with the Office for Civil Rights which is a division of HEW. The community in general and parents specifically have become frustrated over the fact that their complaints have not been addressed.

The parents association, during the school years of 1972–1973, tried, without success, to meet with various school officials to have their complaints aired. It was the reluctancy of the school system to meet with black parents that caused the parents association and other parents to make an official complaint to HEW alleging racial discrimination in the area of discipline.

It is our contention that HEW, or specifically the Office for Civil Rights, must be allowed to continue their investigation in Anne Arundel County.

In the last 2 years, there have been numerous complaints from many different parts of Anne Arundel County by parents, alleging that racial discrimination still exists. We feel without a judicious and forthright investigation into Anne Arundel County by an independent body with Federal statute that the concerns of black parents will be forgotten.

It is our concern that the parents, students, and other citizens in Anne Arundel County be assured of a fair investigation; that politics will no longer be used as a means to impede the investigation.

To this end, we have pledged to do everything possible to see that justice becomes a reality, as it relates to the HEW investigation.

We no longer can afford to play games about the children's education. We must allow this investigation to continue and see to it that all children in Anne Arundel County receive a good quality education.

We specifically would like to address ourselves to the Maryland task force report and give our analysis of what we feel the Maryland task force report said.

The Maryland State Board of Education appointed the task force to investigate charges that student discipline was being administered in a manner that discriminated against black students in public schools of Anne Arundel County.

Our analysis of the report produced by the task force shows very clearly that the task force somehow forgot that it was supposed to investigate and, instead, sought to defend the Anne Arundel school system.

The report is without any semblance of objectivity. It amounts to a stirring defense of the Anne Arundel County school system. Therefore, its conclusions and recommendations are without merit and should be disregarded.

The task force should be viewed as just another arm of the Anne Arundel County school system.

In the remainder of this statement, I will produce evidence that shows the total partiality of the task force, thus pointing out the need for HEW having access to the data.

We would like to start with the Anne Arundel County's Learning Center.

The task force decided to examine the "notion that referral to the learning center might be used as a discriminatory measure to remove minority children from regular school programs."

After discussing the so-called learning center's objective i'ss with principal, the task force concluded that it "... is certainly one of the most commendable programs being operated within Anne Arundel County school system."

They came to this view without producing a shred of evidence to support it.

The central issue is that a significantly higher proportion of blacks were being removed from the classroom and placed in the so-called learning center was handled in the following offhanded manner:

> The fact that a higher proportion of black than white students as compared to total school population is referred to the learning center is not a matter of dispute. This cannot be viewed on its face as evidence of discrimination. To the contrary, it should be viewed as evidence of the school's desire to provide this important rehabilitative service to those students who exhibit serious behavior problems without regard to race.

The charge being investigated was that the learning center might be used as a discriminatory means to remove minority children from regular school programs. The evidence clearly indicates that a significantly higher proportion of blacks are in the center.

No evidence was produced by the task force to the effect that these children are better off in the learning center, yet it comes up with the astounding conclusion that "* * * any implication that referral to the learning center is used in a discriminatory manner is without merit."

I would like to move away from the written testimony for just a moment and say that we have a complaint before us of a young student, who is 13, who originally attended the learning center.

While he was attending the learning center, he had to take some tranquilizers, supposedly because he had emotional problems.

At the learning center, he received a grade of NG. I do not know what NG stands for.

In language and arts, he received C, and in science he received C.

His parents felt so strongly that the learning center was not doing a good enough job, not only to rehabilitate the young man but to give him a proper education, that they took their son out of the learning center and, indeed, out of the State of Maryland, and sent him to another school in another State.

He received a subsequent report card after that, and, for example, in math where he had an NG—and I do not know what NG means——

Senator **Beall**. Could that mean no grade?

Mr. **Snowden**. Either no grade or no good, or something.

This is the grade he received in math class.

When he went to this other school in another State, in basic math he received A minus; in physical education, which he did not get at the learning center, he received a C-plus; he received an A in reading, and a C-plus in language arts, and a B in handcrafts.

We do not mean to imply this one particular isolated individual——

Senator **Beall**. What did he get prior to being at the learning center?

Mr. **Snowden**. I do not have that record before me. However, Mr. Gilmer can answer your questions.

Mr. **Gilmer**. Senator, I would like to address this particular case because I was very much involved in it, and even though he was not one of the original complainants that came from the elementary school on Green Street, he was in that particular group at the time that complaints were initiated by parents.

At that time, I was representing the NAACP, and so many of these complaints come in daily to my home, complaining about the treatment they were having, I decided to go down to the elementary school on Green Street to find out just exactly what was happening.

What happened was on that particular day, this student was charged with some kind of misbehavior, and I talked with the student, and I talked with the principal.

The student did ask for forgiveness and broke down and cried. He was a thumb-sucking little boy.

But as I looked in the door before I left, there were over 15 little black students, ranging in ages from 6 to about 9, lining up there waiting to see the principal to be sent home for disciplinary action.

I said, "My God, what is going on here?"

A teacher made this remark, "We had no problems here until these children were transferred from the low-economic group from Adams Park Elementary School to this particular school."

Senator Beall. What is the percentage of black and white in that particular school?

Mr. Gilmer. I think it is pretty well evened out. I do not have the statistics on it.

At first, this was one of the changeovers from the elementary school, Adams Park Elementary, to the learning center, which was in immediate proximity to the black students that were attending it. And they were transferred downtown. And this is where all the complaints started, from that particular school, to HEW.

Senator Beall. Is this the school where there is a black principal?

Mr. Gilmer. Yes. And I felt sorry for the black principal. It was she the teachers were putting weight on. I know that.

He was then sent to another school from this particular school, to the Parole Elementary School. He was then kept out of school for a couple of months. Then they sent him to the learning center.

Senator Beall. He was kept out of school by his parents?

Mr. Gilmer. No. By the school, because he had to have some kind of psychiatric investigation and so forth and so on.

Then they sent him to this school here. The parents, last year, decided to send him to an out-of-State school, and the child is just succeeding beautifully.

Senator Beall. A public high school in another State?

Mr. Gilmer. Yes.

I would like to introduce it for the record.

Senator Beall. We do not want the name of the student.

Mr. Gilmer. No.

[The information referred to follows:]

ANNE ARUNDEL COUNTY LEARNING CENTER
ADAMS PARK
ANNAPOLIS, MARYLAND 21401

Telephone: 268-5461

[redacted]
STUDENT

DATE OF BIRTH

GRADE

11/9/73
DATE

DEAR PARENT,

WE WISH TO REPORT THAT [redacted] COMPLETED THE FOLLOWING BEHAVIORS DURING THE 1st QUARTER AT THE LEARNING CENTER.

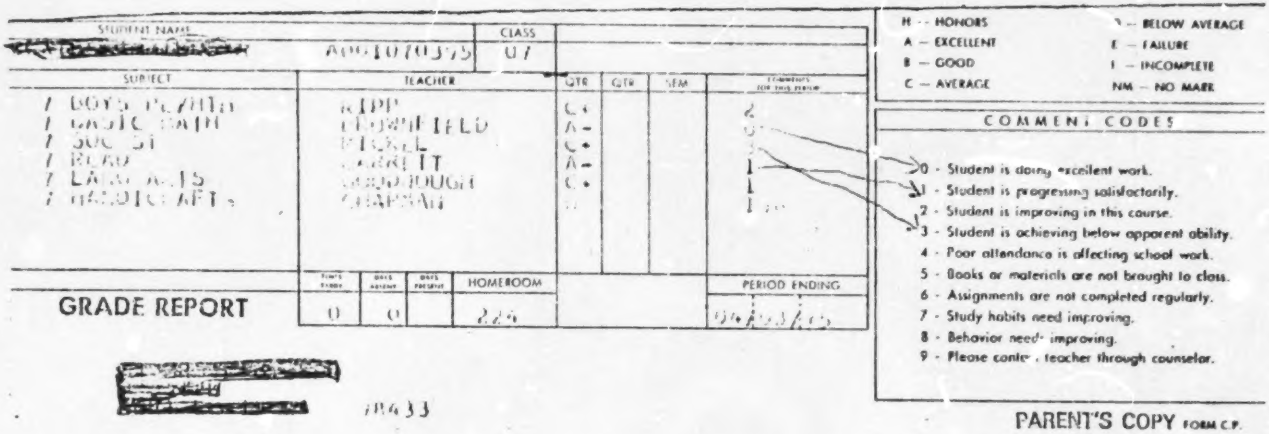
1. ATTENDED 25 DAYS ABSENT 2 DAYS
2. EARNED ______ SUCCESSFUL DAY CARDS OUT OF A POSSIBLE ______.
3. BY COMPLETING [illegible] TASKS OUT OF [illegible] TASKS ON THE 2nd TERM CONTRACT, YOUR CHILD HAS EARNED THE FOLLOWING GRADES:

LANGUAGE ARTS C
SOCIAL STUDIES C
MATH NG
SCIENCE C

	QUARTER 1	QUARTER 2	QUARTER 3	QUARTER 4	FINAL GRADE
MATH	NG				
LANGUAGE ARTS	C				
SOCIAL STUDIES	C				
SCIENCE	C				

COMMENTS:

TEACHER



STUDENT NAME		CLASS			
[redacted]	A001070375	07			

SUBJECT	TEACHER	QTR	QTR	SEM	COMMENTS FOR THIS PERIOD
7 BOYS PE/HLTH	KIPP	C+			2
7 BASIC MATH	BROWNFIELD	A-			0
7 SOC ST	PICKEL	C+			3
7 READ	GARRETT	A-			1
7 LANG ARTS	GOODHOUGH	C+			1
7 HANDICRAFTS	CHAPMAN	[illegible]			1

GRADE REPORT

TIMES TARDY	DAYS ABSENT	DAYS PRESENT	HOMEROOM	PERIOD ENDING
0	0		224	04/03/75

H — HONORS	D — BELOW AVERAGE
A — EXCELLENT	E — FAILURE
B — GOOD	I — INCOMPLETE
C — AVERAGE	NM — NO MARK

COMMENT CODES

0 - Student is doing excellent work.
1 - Student is progressing satisfactorily.
2 - Student is improving in this course.
3 - Student is achieving below apparent ability.
4 - Poor attendance is affecting school work.
5 - Books or materials are not brought to class.
6 - Assignments are not completed regularly.
7 - Study habits need improving.
8 - Behavior needs improving.
9 - Please contact teacher through counselor.

PARENT'S COPY FORM C.P.

[redacted]

78433

Mr. SNOWDEN. If I may proceed now, I would like to go back to the written testimony.

Moving back to the written testimony, another area that the task force was to investigate was that ". . . black students are being 'pushed out' of school. That is, black students are being suspended unfairly, and as a result are opting to withdraw from school . . ."

The data that the task force used showed that "254 blacks were suspended two or more times for a total of 686 suspensions, and 407 white students were suspended two or more times for a total of 1,033 suspensions."

This data further show ". . . that 15 black students who were suspended on two or more occasions withdrew." The task force then made a comparison of the difference in the rate of withdrawals between black and white of those students who were suspended twice. They found no "statistically significant difference." The task force thus concluded that ". . . the 'push out' theory seems to be without basis in the data."

In the first place, the conclusion was based on the measurement of something that was not in question. The data clearly indicates a significant difference between the percentage of blacks and whites suspended twice—254 as compared to 407 respectively—based on proportion of blacks in the school system, and further the proportion of blacks that withdrew—15 compared to 34 for whites—was much higher than their relative proportion in the school population.

The task force further decided that it would "investigate the charges that student discipline was being administered in a manner that discriminated against black students in the public schools of Anne Arundel County."

The task force stated: "Examination of the raw data on student suspensions for the school year 1973-74 in the Anne Arundel County school system revealed that there was a statistically significantly higher frequency of black students suspended, however, it is well recognized that statistical significance of this nature does not in itself prove discrimination.

"The statistical analysis of the suspension data produced by the school system and reviewed and verified by our independent statistical expert may be interpreted as demonstrating only a weak trend in the data. The inference drawn from such analysis are inconclusive."

It is extremely difficult to believe that a so-called "investigative" unit could come up with such a statement. In an earlier section of the report, the task force drew a conclusion from that data that it was "statistically insignificant," when they felt that the result was favorable to the Anne Arundel County school system's position. But as soon as data showed real statistical significance supportive of the black parents' position, the task force suddenly decided that inferences cannot be drawn from the data. These are contradictory positions.

One question thus becomes: Why was the hypothesis tested in the first place if inferences could not be drawn from the results? The answer is clear: if the result is supportive of Anne Arundel County's position then the task force had good scientific statistics to prove it. But since the result was not favorable to Anne Arundel County, then let us not base any conclusions on them.

Mr. Chairman, it is evident from a brief analysis of the report produced by the task force that the task force was in no way impartial and objective. The task force, in effect, simply served as another arm of the Anne Arundel school system and produced a whitewashing job. It is therefore imperative that an independent agency such as HEW be allowed to have access to such data to protect the rights of the parents and children in Anne Arundel County as well as other school districts in this country.

In a recent study reported in the New York Times December 29, 1974, information was presented that shows that the disproportionately high percentage of black students being disciplined is not unique to Anne Arundel County. During the 1972–73 school year, 19 out of the 20 top cities in the country had higher rates of suspension for blacks than for whites. If this data reflects institutional racism, it may exist because:

(1) Policies that have evolved over the years are unintentionally discriminatory.

(2) There is current active bias against black students.

(3) There is a rise in suspendable conduct on the part of black students as a reaction to the hostile school environment.

The New York Times report also stated that during the 1972–73 school year when the Dallas school system was 38.7 percent black, 60.5 percent of the students suspended for disciplinary reasons were black. An extensive analysis of the Dallas schools found that not only were black students suspended more frequently than white students, but they were also receiving more than 3-day suspensions more frequently.

In addition, it was found that very often nonviolent offenses were the basis for suspensions of blacks. For the years 1972–73 and the first half of 1974, 60 percent of suspensions and corporal punishment were for such offenses as truancy and talking back to the teacher.

It was such data that resulted in the Dallas school system being found guilty of institutional racism by a U.S. district judge. Such data can only be obtained by an extensive investigation which requires full access to records. The responsibility to conduct such an investigation is clearly with the Department of Health, Education, and Welfare under the Civil Rights Act of 1964.

That racial discrimination is not limited to the Anne Arundel County school system, but is a matter of national proportion was also revealed recently in an 18-month study conducted by the Children's Defense Fund, a private educational research organization—Washington Post, December 22, 1974.

The study showed that almost 2 million children between the ages of 7 and 17 have been pushed out of school and onto the streets by a variety of circumstances. The report found 10 States that have more than 6 percent of their school age population out of school.

The report stated: "We found that if a child is not white, or is white, but not middle class, does not speak English, is poor, needs special help with seeing, hearing, walking, reading, learning, adjusting, growing up, is pregnant at age 15, is not smart enough, or is too smart, then in too many places, school officials decide school is not the place for that child."

While the report showed that the problem of children being pushed out of school is not exclusively racial, a higher percentage of nonwhite children are out of school than white children. Although 75 percent of all children not enrolled are white, the report said, 6 percent of all nonwhite children are out of school, compared to 3.9 percent of all white children.

In 190 school districts, 37.5 percent of those surveyed, black students were five time more likely to be placed in classes for the educable mentally retarded as white children. In 51 districts, the probability was 10 times greater, the report said.

The foregoing information clearly shows that discrimination in the treatment of nonwhite children in the public school system is occurring throughout this Nation. This is the result of policies designed and promulgated by or unwritten procedures ignored by officials within specific school districts.

Identification of such discrimination requires a detailed examination of school records and personal interviews which can then lead to the necessary remedies. Such investigations are the responsibility of HEW under the Civil Rights Act of 1964. Such an investigation needs to be conducted in Anne Arundel County.

Mr. Chairman and members of this Senate committee, it is imperative that there be no legislation prohibiting HEW from being able to investigate local school districts. As aforementioned, the problem that is being addressed goes far beyond Anne Arundel County, or Maryland.

As our testimony has indicated, local school districts and their parent organizations are no more objective in investigating themselves than police departments are in investigating police brutality.

We all know the history of racial discrimination in this country. It has not been eliminated in the broad sense and it has not been eliminated in the school system.

Black parents simply do not want the Marjorie Holts and their sophisticated methods of standing in the door to prevent them from attaining quality education for their children.

The obstinance of the officials in Anne Arundel County in preventing HEW from having access to school data should indicate the difficulty that a poor black parent would have.

It is important for black people to have faith in the basic fairness of the system. We must feel that there is an avenue open for us to air our grievances. HEW is quite often, in the area of discrimination, the only option left for us. It is essential that the latter day George Wallaces and Marjorie Holts not be allowed to deny us that right.

We believe there is merit in the complaints that black parents levied against the Anne Arundel County school system. However, the merit, or lack of merit is not the important issue. The important issue is that there must be access to an avenue for the hearing and redress of grievances in our school systems across this country.

I would like to also note that it has been the position of the Coalition for Justice that we do not take a position on whether discrimination exists or not exists in Anne Arundel County. Our position is that a complaint has been made, and that the people, the black parents in particular, have a right to have these complaints either validated or invalidated.

If HEW comes into the school system and does a thorough, judicious investigation, and out of that investigation we learn that the school district does not discriminate against blacks or other nonwhite students, then we will be very happy to accept their position.

We feel that until HEW comes into the school system to do this judicious investigation, we will be suspicious of the school system.

Thank you, Mr. Chairman, for allowing us this opportunity to speak.

[The information referred to follows:]

[From the New York Times, Dec. 29, 1974]

DISCIPLINING STUDENTS ON A RACIAL BASIS

MINORITY STUDENTS ARE SENT HOME MORE OFTEN

(By Doris Ann Samples)

Dallas—In response to a court order, the Dallas school system is taking steps to eliminate institutional racism in the ways it disciplines students. The experience could have implications for other school districts with similar problems.

The Dallas system was found guilty of institutional racism last June by United States District Judge Sarah T. Hughes in a lawsuit brought by a black youth and his mother. Judge Hughes ordered that corrective measures be taken.

During the 1972-73 school year, when the Dallas schools were 38.7 percent black, 60.5 percent of the students suspended for disciplinary reasons were black. Dallas is not alone. Of the top 20 cities in the country, 19 had higher rates of suspension for minorities than for whites last year.

There is controversy over the implications of the statistics. The high suspension rate of minority students may reflect institutional racism, but it also could be evidence of social, economic and cultural differences. If it reflects institutional racism, it may exist because of policies that have evolved over the years that are unintentionally discriminatory, because of current, active bias against minority students, or because of a rise in suspendable conduct on the part of minority students as a reaction to a hostile environment.

The Dallas case was unusual. During the trial, School Superintendent Nolan Estes took the stand and admitted that institutional racism existed in the schools. And after the decision was handed down, the school board decided not to appeal but to try instead to rid the system of the problem.

The trial resulted from a fight between a black student and a white student at a newly desegretated junior high school. Both boys were suspended. The black youth and his mother sued the district, charging that the boy was denied due process, and that he had been harassed and provoked into fighting by the white boy. The case, Hawkins vs. Coleman, evolved into a class action suit on behalf of those black students attending newly desegregated schools.

The case made headlines in Dallas and there was much discussion about exactly what was meant by the term institutional racism. One school board member said, "What is it? Nobody ever heard of it before. Nobody knows what it is!"

An effort to provide an answer was made by expert witnesses called by the plaintiff during the trial. A statistical analyst, Dr. Scott Kester, assistant professor of educational psychology at the University of Miami, conducted an extensive analysis of the Dallas schools. He found that not only were black students being suspended more frequently than white students, but they also were receiving "more-than-three-day" suspensions more frequently.

[Very often nonviolent "offenses" were the basis for suspension of blacks. Data presented to the court showed that for the years 1972-73 and the first half of 1974, 60 percent of suspensions and corporal punishment were for such offenses as truancy and talking back to the teacher.]

Ruben McDaniel, assistant professor of management and Consultant to the Dean of Students at the University of Texas, testified that the Dallas schools would be perceived by black children and their parents as discriminating in the application of suspensions, and that this perception would have an effect on the students. "When a child is in an institution where he believes and perceives that he is discriminated against because of factors beyond his control, he then becomes frustrated," Mr. McDaniel said. "*That frustration then tends to reflect itself in, at least potentially, two ways. One is hostility and aggression, and the other is extreme passivity.*"

AFFIRMATIVE ACTION PLAN

Superintendent Estes, asked if he was aware of anything to which he could "attribute the high number of suspensions of blacks over whites," testified: "*Well, we are a white-controlled institution, institutional racism, racism among individuals, the inability to match learning styles with teaching styles, inappropriate and inadequate support from the home, attitudes of students and parents, all aspects of the environment contribute.*"

In August, the school board adopted an affirmative action plan, and its implementation has proceeded at all levels. The board also appointed a task force to get out into the community to explain the program.

A handbook for students, teachers and parents has been written, outlining specifically what behavior warrants disciplinary action. Written reports by teachers on every disciplinary action taken in the classroom now go to a staff personnel committee in each school. The committees ascertain the kinds of problems that are occurring, and decide how to eliminate them.

In several high schools, committees have pinpointed lack of minority participation in school activities as a major reason for many disciplinary problems. In these schools, to insure multi-ethnic representation, new methods of electing student government representatives were initiated. Now students are elected according to precinct instead of on an at-large basis.

In one grade school the teachers decided they were not handling the students effectively, not meeting the needs of the children, not being aware or sensitive enough to each child's background. The teachers held a workshop, and proceeded to work on ways to change. They also decided to begin visiting in the homes to try to understand better their students' backgrounds.

[From the Washington Post, Mar. 6, 1975]

BLACKS SUSPENDED FROM SCHOOL MORE

(By Eric Wentworth)

Black students are suspended from school throughout the country at twice the rate of whites, according to a Health, Education and Welfare Department survey of disciplinary actions during 1972-73 in 2,908 school systems.

The HEW survey showed that 6 per cent of the 6.5 million black students in those systems were suspended at least once, compared to 4 per cent of the 9.1 million total for all minorities and only 3 per cent of the 14.8 million whites.

HEW's Office of Civil Rights, which released the survey results yesterday, didn't draw any sweeping conclusions on whether they showed public school discipline was biased against blacks.

Black students, who represented 27 per cent of the nearly 24 million students of all races in the 2,908 school systems, accounted for 42 percent of all suspensions and 37 per cent of all expulsions.

Moreover, the HEW survey showed, suspended black students missed an average of 4.5 days of school as the result of being disciplined, compared to an average of 4.3 days for all minorities and only 3.5 days for whites. This meant either that blacks tended to get more severe penalties, or that many were suspended more than once.

School discipline has become a major constitutional and political issue recently on both the national and local scenes. The Supreme Court has ruled that school officials must observe students' rights to due process in disciplinary cases.

And the NAACP Legal Defense and Educational Fund has filed suit against the Prince George's County school system, alleging that excessive suspensions of black students have been depriving them of their educational rights. Civil rights groups have charged in the past that disciplinary actions in Southern school districts showed bias against blacks.

The HEW data was compiled for the first time from responses to a nationwide survey of school systems which were desegregating, voluntarily or under court order, or had at least 10 per cent minority enrollments. The 2,908 systems enrolled an estimated 95 per cent of all public school minority students.

Among Maryland school systems, blacks in Prince George's County represented 28 per cent of total enrollment but 43 per cent of the students suspended. In Montgomery County, blacks represented 7 per cent of total enrollment and 17 per cent of the students suspended. In Anne Arundel County, they were just under 13 per cent of total enrollment but nearly 27 per cent of the students suspended.

Among Virginia school systems, HEW data for Arlington County showed blacks accounting for 13 per cent of total enrollment but 41 per cent of the students suspended. For Alexandria, it showed blacks at 37 percent of the total enrollment and 64 per cent of the students suspended. For Loudon County, blacks were 12 per cent of the enrollment but 32 per cent of those suspended.

Senator PELL. I apologize for not having been here for the earlier part of the meeting. As Senator Beall knows, I was at the Rules Committee, working on the contested New Hampshire election.

I congratulate Senator Beall on organizing this hearing. I know he has been conducting it wisely, and I am delighted that he has handled it so well. I will turn it back to him.

Senator BEALL. Thank you, Mr. Chairman, and I am happy you were able to take the time out of your busy day to sit in on the hearing.

Mr. Snowden, it seems that you are indicating that you think it is desirable for HEW to look into the specific complaints that have been made in Anne Arundel County.

Do you think that should have been done before now?

Mr. SNOWDEN. Yes, sir.

Senator BEALL. You think they should have done that before they proceeded to investigate other matters, or to conduct a pilot study?

Mr. SNOWDEN. I would think in terms of the specific complaints, the first letter that I reviewed yesterday, that was sent on May 17, it gave specific examples of what has been referred to as a complaint in general, but I remember counting something in the neighborhood of 11 or 12 black parents who gave specific complaints of what they felt to be discrimination.

We felt that those complaints should have been investigated.

Senator BEALL. How long do you think it should take for those complaints to be investigated?

Mr. SNOWDEN. It should take as long as necessary for a judicious investigation to take place.

Senator BEALL. Do you think it is reasonable for the department of education in Anne Arundel County to withold the names of students?

Mr. SNOWDEN. Oh, yes, sir.

Senator BEALL. You think it is reasonable for them to ask that teachers in the system have someone with them when they are being questioned, or a record being kept of the questioning that takes place?

Mr. SNOWDEN. Yes, sir. In fact, if I may add something, just as I think it is reasonable that teachers be allowed to have people with them when HEW investigations come. I think it's also important for the parents' complaints to be aired.

I am trying to point out in terms of this example that the complaints have not stopped coming in. There are still parents complaining.

There was one incident of a mother who did not finish high school—in fact, she did not finish elementary school—and she was to have a parent-teacher conference with the principal, and at prior conferences she felt whenever she talked to these administrators that they talked down to her.

She expressed twice to one particular principal that she did not understand what he was saying, and decisions were being made with regard to her child that she did not fully comprehend.

She in turn contacted us and asked one of us to go with her, to sit in on this hearing to explain what was going on. We went to the school. The appointment was set up, and when we got there the principal denied her the right to have an individual who she wanted to sit in on this particular meeting with her to explain to her what the problem was.

The principal then cited some law that supposedly existed that said only an attorney could go into the parents' conference, unless he was related to the individual.

Subsequently we found out that no law existed, and now that policy has been changed.

Senator BEALL. The policy has been changed?

Mr. SNOWDEN. Yes; to our knowledge, it has been changed. But it pointed out again the difficulties of black parents. You find many parents who are working-class people, who will take off a half day from work, and when they come to meet to discuss their children's particular problems, they find they are given obstacle after obstacle, and they get turned off.

Unfortunately, the kids themselves get turned off, and consequently give up on school entirely.

Senator BEALL. Do you have a record of the number of complaints you or your organization have received about the school system?

Mr. SNOWDEN. I can give you some personal ones, and then this particular coalition represents four different civil rights organizations. The Parents Association has their own record, which I do not have available to me, but in the last 3 months we have had 10 different complaints alleging discrimination.

Senator BEALL. What do you do with those when you get them?

Mr. SNOWDEN. It depends on the nature of the complaint. If the complaint is something that we feel is valid, we refer it to the Human Relations Commission, which is a commission which is in Anne Arundel County that will go and look at a particular case.

We may contact a particular teacher, instructor, to try to work something out.

Senator BEALL. Can you furnish those complaints that you received for the record, without including the names of the individuals involved?

Mr. SNOWDEN. I do not have them with me, but they can be furnished; yes, sir.

[Information supplied follows:]

[Insert on p. 110

CAMERA COPY--PLEASE SHOOT AND
SUPPLY 2 SETS DYLUX
(Hold Page Numbers Thruout)

School Problems Received
Compiled April 24, 1975

11/19/74

Mrs. X, Magothy - child suspended, but not the white kid.

12/10/74

Mrs. X, Severn, Maryland son Y, age 9 was dragged down the hall by a teacher 12/9/74

11/21/74

Mrs. X, Annapolis, MD daughter Z suspended after she claimed teacher used disrespectful language.

11/14/74

Mrs. X, Annapolis, MD son 10 years of age suspended, he struck teacher after being man handled.

11/1/73

Ms. X, Annapolis, Md. - Male teacher at Tyler Heights School struck and slammed black student against wall & locker, a second call came from Ms. A.

12/9/72

Mrs. X, Brownswoods, problem with school refusing her child admittance.

6/8/72

Mrs. X called for Mrs. Z, a teacher at Southgate Elementary, living at -------------.Cherry Hill, Md. Mrs. X requested that we contact Mrs. Z at her home after 6:00 p.m. concerning problems of racial discrimination at that school.

6/8/72

Mr. X retained Attorney Z to represent his son at Freetown School.

10/23/72

Mrs. X, Arnold, MD son dismissed from school, teacher claim that at 16 years of age, he was to old to be in 8th grade.

Complaints continued

12/74

Mrs. X, Annapolis, MD daughter suspended from Bates Jr. High through misunderstanding between she and white girl student. After returning to school, she received a notice three months later, that daughter had to appear before juvenile authority. A subsequent meeting with school officials in February, the parent was told by the principal, "If you do not hear from us in 10 days, the matter will be dropped," however in April, the parent received a summons to appear in Juvenile Court concerning the aforementioned subject.

Senator **Beall**. Do you have any evidence that a white youngster or black youngster received different treatment for the same act?

Mr. **Snowden**, We have had parents and students who have complained of this, but we have no way of comparing or doing any research.

Senator **Beall**. Do you think it is possible to determine when a specific disciplinary is racially motivated and not justified?

Mr. **Snowden**. Yes; I think it is possible. Let me say this. We held a number of forums.

I want to make this clear. I believe that this particular coalition for justice and the organizations that it represents have been very fair when it came to the school administration. They have been invited to different forums to participate.

We had a forum last year in regard to racism and sexism, and one of the outstanding things that keeps coming up—if it was just a matter of one or two parents yelling racial discrimination, there would perhaps be no problem—but in the different forums we have had, many parents from different parts of the county who have voiced their concern about racial discrimination.

We as an organization, I think you will note, do not have the power to go to the school system and evaluate whether or not we think racial discrimination exists. However, we feel if HEW were allowed to continue their investigation, then that investigation could be conducted. They have the expertise to judge what is racial and what is not racial.

Again, we would be most happy with whatever that investigation would result in. It could turn out that the school system could be very clean. It could be there is no racial discrimination going on whatsoever. But at least with the numerous complaints we have, many, many parents are waiting to find out that decision.

Senator **Beall**. Do you disagree with the results of the task force with regard to the two specific complaints that they received?

Mr. **Stubbs**. I would like to deal with that, Senator.

In terms of those two specific complaints, I do not know how those complaints were selected or anything, but on a large scale, that is a very small sample, and it really does not prove anything.

Senator **Beall**. They were selected because they were the two HEW received.

Mr. **Stubbs**. Yes, but HEW received many other complaints.

Senator **Beall**. But they were the first two specific complaints that HEW received. Those are the ones we were aware of, and that is what generated a lot of this discussion. That is why I asked the question.

The Maryland task force investigated those two complaints, and my question to you was whether you agree with the finding of the task force, or do you disagree with the finding of the task force with those two cases?

Mr. **Stubbs**. I disagree with the finding of the task force.

Senator **Beall**. Would you agree with them on those two incidents?

Mr. **Stubbs**. It is quite possible, but I look at the whole report, and the report just lacks any objectivity at all.

Senator **Beall**. I know Mr. Snowden took exception to the report during the course of his testimony, but you do agree with them on those two complaints? I do not want to put words in your mouth.

You say you do not disagree with the findings of the task force with respect to those particular two cases?

Mr. STUBBS. No.

Mr. SNOWDEN. It took 2½ months or something of that nature for them to come up with their findings. I am not sure how they came up with their findings. I know one of the individuals who they talked with, and they were sort of upset with the conclusions that the task force came to, but my personal evaluation of it is that I do not think in terms of the overall picture whether discrimination exists or not, those two can be taken into account.

Senator BEALL. You mentioned some specifics, and I have been impressed with other statistics presented here this morning that a very small proportion of both white and black students are responsible for a very high proportion or a large proportion of the disciplinary actions.

Are you inclined to agree with that?

Mr. STUBBS. Yes, but we are still talking about 600 people. When you compare 600 to 80,000, that is a very small number as a relative proportion, but when you look at 600 children, that still is a large number, and those 600 children probably have 600 parents, and we are talking about a large number of children.

The thing that concerns us is the relative proportion of blacks that are being suspended.

Senator BEALL. Maybe it is proving that the school system for some reason does not provide the kind of environment that person needs.

Mr. STUBBS. Absolutely. What we want is to make sure that the school system could not possibly be at fault. It could be the fault of the parents, but because we feel the school system is at fault, it is alleged at fault by the parents, we would like to make sure that there is adequate access, and we all know that the accused in most instances are not allowed to judge whether or not they are guilty or not Usually we have an independent agency to make that determination.

The point we tried to show today is that the task force that investigated this was not in fact an independent agency but was in fact an arm of the Anne Arundel County school system.

Senator BEALL. You are not complaining specifically about the school administration in the county? Your complaint is specifically about the task force report?

Mr. SNOWDEN. We had mentioned this to HEW earlier. Black parents had great difficulty in communicating with the school system as a whole, and there was a fear on the part of many black parents who had to go before this school, for whatever reason, that the administration did not comprehend what they were saying, nor were they sensitive to their particular needs.

One of the things I know over the years we have worked with black parents particularly on instances of this kind, and one of the things they have always felt is that they could never put their finger on it per se, but they had this feeling that the administration never really took them seriously; they felt they were treated almost as if they were children, in instances.

Senator BEALL. Do you think the school system as a result of your efforts and the task force study is trying to improve the level of communication with parents?

Mr. SNOWDEN. There have been some parents who have been working with the administration who have said they have gotten a better response, but only time will tell whether that response will stay as high as it is now.

Senator BEALL. Do you think that the movement is in the right direction?

Mr. SNOWDEN. It appears to be that way.

Mr. GILMER. I think we are missing some of the things that the hierarchy in the school system does not understand.

Let us get back to the relationship of the parent and the immediate school. It is the subtle way in which they feel they are being discriminated against.

Mr. SNOWDEN. I would like to enter into the record another case which has just come to our attention this week. This is where there was a problem between two children, one of which was white. The child was suspended for 6 days. There was a hearing at the school.

The parent went away feeling that it was all over with, and this happened in November. The two children, including the white child, speak and get along in a friendly way.

In February, a black parent received a notice from the school that she was to come in for a hearing concerning a possible juvenile action against the child for this incident which took place in November.

The parent went to the school, taking off from work to go there, and was told, I will give you a notice in 10 days to let you know what we are going to do. If you do not hear from us in 10 days, you will know it has been all taken care of.

On April 26, she received a summons. The school is now saying: You will appear in court.

Senator BEALL. You may enter it in the record.

I suggest you might want to give it to the school administration so they may know about it.

Mr. SNOWDEN. Yes. I have to talked to Mr. Carter about it.

Senator BEALL. The record will be left open so people may expand on their testimony.

[Information supplied for the record follows:]

IN THE MATTER OF	IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY SITTING AS A JUVENILE COURT
[redacted]	NO. A-11,323 JUVENILES 75-150-J:EJW:mc

PETITION FOR A PROCEEDING
WITH REGARD TO A JUVENILE

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of the State's Attorney for Anne Arundel County respectfully represents unto Your Honors:

FIRST: That your petitioner is a member of the staff of the State's Attorney's Office for Anne Arundel County and pursuant to th provisions of Maryland Rule 903d., is charged with the responsibility of filing delinquency petitions.

SECOND: That [redacted] is a juvenile and that to the best of your petitioner's knowledge and belie the following facts concerning the juvenile are true and accurate:

Date of Birth February 13, 1960, Sex F, Race N

Residence [redacted], Annapolis, Maryland 21401 (257-8040)

Detention or shelter care has / has not previously been authorized.

Custodian's Name [redacted], Mother

Custodian's Address Same

THIRD: That your petitioner verily believes that said child is a delinquent child under the provisions of Article 26, Section 70-1(h) by reason of the following facts and circumstances:

1. That on or about the 13th day of November, 1974, in Anne Arundel County, th said [redacted] did unlawfully assault [redacted].
2. And that on or about the said date in the said County, the said [redacted] did unlawfully assault and beat [redacted]
3. And that on or about the said date in the said County, the said [redacted] did unlawfully molest and threaten with bodily harm a student, [redacted], who was lawfully in the building known as The Bates Junior High School.

and is therefore within the jurisdiction of this Court.

Wherefore, your petitioner prays this Honorable Court to assume jurisdiction in this matter and, after proper hearing, to pass such order(s) as the Court may deem appropriate.

Authorized By: State's Attorney for Anne Arundel County

Intake officer/Review Authority By:

CO-DEFENDANTS: Deborah and Karen Belt
Board of Ed.

[illegible] 3:53

TEST: [illegible] CLERK

(JUVENILE SUMMONS) **NO.** [illegible] **Juvenile**

THE STATE OF MARYLAND,

ANNE ARUNDEL COUNTY, To Wit:

To [redacted]

[redacted]

Annapolis

[redacted]

(same address)

GREETING:

We command and enjoin you that you be present in the Circuit Court for Anne Arundel County, Annapolis, Maryland sitting as a Juvenile Court on Thursday, May 8 **, 19**75
at 11:00 a.m. **and produce the child named above for the purpose of a hearing on the Appointment of Counsel and for the setting of a date for further proceedings. It is necessary that one parent (guardian) attend this hearing and bring with them the attached Notice of Right to Counsel. The Court may at this or any later hearing, consider and determine the custody of the child, the responsibility for his support and the amount thereof.**

Failure to comply with this summons will result in a Warrant being issued for your immediate arrest.

Witness, the Honorable James Macgill, Chief Judge of the Fifth Judicial Circuit of Maryland, this ______ day of ______, 19___

Issued this ______ day of ______ 19___

______ **Clerk**
(Seal)

Recd 4/24/75

TRUE COPY
TEST: [illegible] CLERK
Frances J. Starr DEPUTY

IN THE MATTER OF	*	IN THE CIRCUIT COURT
	*	FOR
[redacted]	*	ANNE ARUNDEL COUNTY
JUVENILE	*	NO. A-11,323 JUVENILE

* * * * * *

NOTICE OF RIGHT TO COUNSEL

TO CHILD, & PARENTS, OR PERSON HAVING LEGAL CUSTODY OF CHILD:

As the attached Petition shows, your child has been charged in the Circuit Court for Anne Arundel County, sitting as a Juvenile Court. Under the Law, every child so charged has the right to have a lawyer. In order for the Court to know that you have been advised of your rights, it is necessary that you and your child inform us of your desire as to a Lawyer.

Please complete this form by checking the proper space provided below, signing, and bring with you for hearing on Counsel.

CHECK ONE

Child ( ) Parent ( )	I elect not to be represented by a lawyer.
Child ( ) Parent ( )	I will employ my own lawyer His name is ______________________________
Child ( ) Parent ( )	I have no money, I ask the Court to appoint a Lawyer to represent me. ~~(If you elect the court to appoint a Lawyer, fill out enclosed form (Request for Assignment of Counsel).~~

Signature ______________________ ______________________
Parent Child

JVL-5

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SUPPLY 2 SETS DYLUX
(Hold Page Numbers Through)

Testimony Before the Sub-committee on Education
Presented By the Coalition For Justice
Carl Snowden - Chairperson
Samuel Gilmer - Member
Jhonnie L. Stubbs - Member

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Suspensions & Due Process: An Analysis of Recent Supreme Court Decisions on Student Rights

JUSTICE DELAYED & DENIED: HEW and NORTHERN SCHOOL DESEGREGATION

INTRODUCTION

We, the members of the Coalition for Justice are attempting to have the complaints of parents and students address. We recognize that it has been over two years since black parents and students initially file complaints with the Office of Civil Rights which is a division of H.E.W. The community in general and parents specifically have become frustrated over the fact that their complaints haven't been addressed. The Parents Association, during the school year of 1972-1973, tried without success to meet with various school officials to have their complaints aired. It was the reluctancy of the school system to meet with black parents that caused the Parents Association and other parents to make an official complaint to H.E.W. alledging racial discrimination in the area of discipline. It is our contention that H.E.W. or specifically the Office of Civil Rights must be allowed to continue their investigation in Anne Arundel County. In the last two years there has been numerous complaints from many different parts of Anne Arundel County by parents, alledging that racial discrimination still exist. We feel without a judicious and forthright investigation into Anne Arundel County by a independent body with federal statue that the concerns of Black parents will be forgotten. It is our concern that the parents, students, and other citizens in Anne Arundel County be assured of a fair investigation. That politics no longer be used as a means to impede the investigation. To this end we have pledged to do every thing possible to see that justice becomes a reality, as it relates to the H.E.W. investigation. We no longer can afford to play games about the children's education, we must allow this investigation to continue and see to it that all children in Anne Arundel County receive a good quality education.

AN ANALYSIS OF THE TASK FORCE REPORT OF CHARGES OF DISCRIMINATION IN STUDENT DISCIPLINARY PRACTICES IN THE ANNE ARUNDEL COUNTY SCHOOL SYSTEM

The Maryland State Board of Education appointed the task force to investigate charges that student discipline was being administered in a manner that discriminated against Black students in public schools of Anne Arundel County. An analysis of the report produced by the task force shows very clearly that the task force somehow forgot that it was suppose to investigate and instead sought to defend the Anne Arundel School System. The report is without any semblance of objectivity. It amounts to a stirring defense of the Anne Arundel County School System. Therefore its conclusions and recommendations are without merit and should be disregarded. The task force should be viewed as just another arm of the Anne Arundel County School System.

In the remainder of this statement, I will produce evidence that shows the total partiality of the Task Force, thus pointing out the need for HEW having access to the data.

ANNE ARUNDEL LEARNING CENTER

The Task Force decided to examine the "notion that referral to the Learning Center might be used as a discriminatory measure to remove minority children from regular school programs."

After discussing the so called Learning Center's objectives with its principal, the Task Force concluded that it "..is certainly one of the most commendable programs being operated within Anne Arundel County School System." They came to this view without producing a shred of evidence to support it. The central issue that a significantly higher proportion of Blacks were being removed from the class room and placed in the so called "Learning Center" was handled in the following off handed manner:

"The fact that a higher proportion of Black than white students as compared to total school population is referred to the Learning Center is not a matter of dispute. This cannot be viewed on its face as evidence of discrimination. To the contrary, it should be view as evidence of the school's

Continued

desire to provide this important rehabilative service to those students who exhibit serious behavior problems without regard to race."

The charge being investigated was that the Learning Center might be used as a discriminatory means to remove minority children from regular school programs. The evidence clearly indicates that a significantly higher proportion of Blacks are in the Center. No evidence was produced by the Task Force to the effect that these children are better off in the Learning Center, yet it comes up with the astounding conclusion that ".... any implication that referral to the Learning Center is used in a discriminatory manner is without merit."

PUSH OUT THEORY

Another area that the Task Force was to investigate was that ".... Black students are being "pushed out" of school. That is, Black students are being suspended unfairly, and as a result are opting to withdraw from school.."

The data that the Task Force used showed that "254 Blacks were suspended two or more times for a total of 686 suspensions, and 407 white students were suspended two or more times for a total of 1,033 suspensions." These data further show "...that fifteen Black students who were suspended on two or more occasions withdrew." The Task Force then made a comparison of the difference in the rate of withdrawals between Black and White of those students who were suspended twice. They found no "statistically significant difference." The Task Force thus concluded that "...the "push out" theory seems to be without basis in the data."

In the first place the conclusion was based on the measurement of something that was not in question. The data clearly indicates a significant difference between the percentage of Black and whites suspended twice (254 as compared to 407 respectively) based on proportion of Blacks in the school system, and further the proportion of Blacks that withdrew (15 compared to 34 for whites) was much higher than their relative proportion in the school population.

INSTITUTIONAL DISCRIMINATION

The Task Force further decided that it would "investigate the charges that student discipline was being administered in a manner that discriminated against Black students in the public schools of Anne Arundel County."

Continued

The Task Force report started: "Examination of the raw data on student suspensions for the school year 1973-1974 in the Anne Arundel County School System revealed that there was a statistically significantly higher frequency of Black students than white students suspended; however, it is well recognized that statistical significance of this nature does not in itself prove discrimination. The statistical analysis of the suspension data produced by the school system and reviewed and verified by our independent statistical expert may be interpreted as demonstrating only a weak trend in the data. The inferences drawn from such analysis are inconclusive."

It is extremely difficult to believe that a so called "investigative" unit could come up with such a statement. In an earlier section of the report, the Task Force drew a conclusion from data that was statistically insignificant when they felt that the results was favorable to the Anne Arundel County School system's position. But as soon as the data showed real statistical significance supportive of the Black parents position, the Task Force suddenly decides that inferences cannot be drawn from the data. These are contradictary positions. The question thus becomes: Why was the hypotheses tested in the first place if inferences could not be drawn from the results? The answer is clear: If the results is supportive of Anne Arundel County's position then the Task Force had good scientific statistics to prove it. But since the results were not favorable to Anne Arundel County, then lets not base any conclusions on them.

Mr. Chairman, it is evident from a brief analysis of the report produced by the Task Force that the Task Force was in no way impartial and objective. The Task Force, in effect, simply served as another arm of the Anne Arundel School system and produced a "whitewash" job. It is therefore imperative that an independant agency such as H.E.W. be continued to be allowed to have access to such data to protect the rights of the parents and children in Anne Arundel County as well as other school districts in this county.

Part III

AN ANALYSIS OF THE PERCENTAGES

In a recent study reported in the New York Times (12/29/74), information was presented that shows that the disproportionately high percentage of black students being disciplined is not unique to Anne Arundel County. During the 1972-1973 school year, 19 out of the 20 top cities in the country had higher rates of suspension for blacks than for whites. If this data reflects institutional racism, it may exist because

(1) policies that have evolved over the years are unintentionally discriminatory
(2) There is current active bias against black students
(3) there is a rise in suspendable conduct on the part of black students as a reaction to a hostile school environment.

The New York Times report also stated that during the 1972-1973 school year when the Dallas school system was 38.7% black, 60.5% of the students suspended for disciplinary reasons were black. An extensive analysis of the Dallas schools found that not only were black students suspended more frequently than white students, but they also were receiving "more-than-three-days" suspensions more frequently. In addition, it was found that very often nonviolent offenses were the basis for suspension of blacks. For the years 1972-1973 and the first half of 1974, 60% of suspensions and corporal punishment were for such offenses as truancy and talking back to the teacher. It was such data that resulted in the Dallas school system being found guilty of institutional racism by a United States District judge. Such data can only be obtained by an extensive investigation which requires full access to records. The responsibility to conduct such an investigation is clearly with the Department of Health, Education and Welfare under the Civil Rights Act of 1964.

That racial discrimination is not limited to the Anne Arundel County School System, but is a matter of national proportions was also revealed recently in an 18-month study conducted by the Children's Defense Fund, a private educational research organization (Washington Post, 12/22/74). The study showed that almost 2 million children between the ages of 7 and 17 have been "pushed out" of school and onto the streets by a variety of circumstances. The report found 10 states that have more than six percent of their school age population out of school.

Continued

The report stated:

> We found that if a child is not white, or is white but not middle class, does not speak English, is poor, needs special help with seeing, hearing, walking, reading, learning, adjusting, growing up, is pregnant at age 15, is not smart enough or is too smart, then in too many places, school officials decide school is not the place for that child.

While the report showed that the problem of children being "pushed out" of school is not exclusively racial, a higher percentage of non-white children are out of school than white children. Although 75% of all children not enrolled are white, the report said, 6% of all non-white children are out of school, compared to 3.9% of all white children. In 190 school districts, 37.5% of those surveyed, black students were five times more likely to be placed in classes for the "educable mentally retarded" as white children. In 51 districts, the probability was 10 times greater, the report said.

The foregoing information clearly shows that discrimination in the treatment of non-white children in the public school system is occurring throughout this nation. This is the result of policies designed and promulgated by or unwritten procedures ignored by officials within specific school districts. Identification of such discrimination requires a detailed examination of school records and personal interviews which can then lead to the necessary remodies. Such investigations are the responsibility of HEW under the Civil Rights Act of 1964. Such an investigation needs to be conducted in Anne Arundel County.

Mr. Chairman and Members of this Senate committee, it is imperative that there be no legislation prohibiting HEW from being able to investigate local school districts. As aforementioned, the problem that is being addressed goes far beyond Anne Arundel County Maryland. As our testimony has indicated, local school districts and their parent organization are no more objective in investigating themselves than police departments are in investigating police brutality.

We all know the history of racial discrimination in this country. It has not been eliminated in the broad sense and it has not been eliminated in the school system.

Continued

Black parents simply do not want the Marjorie Holts and their sophisticated methods of standing in the door to prevent them from attaining quality education for their children.

The obstinence of the officials in Anne Arundel county in preventing HEW from ~~hearing~~ having access to school data should indicate the difficulty that a poor Black parent would have.

It is important for Black people to have faith in the basic fairness of the system. We must feel that there is an avenue open for us to air our grievances. HEW is quite often, in the area of discrimination, the only option left for us. It is essential that the latter day George Wallaces and Marjorie Holts not be allowed to deny us that right.

We believe that there is merit in the complaints that Black parents levied against the Anne Arundel County School system. However, the merit or lack of merit is not the important issue. The important issue is that there must be access to an avenue for the hearing and redress of grievances in our school systems across this country.

Thank you Mr. Chairman for allowing us this opportunity to speak.

SUSPENSIONS AND DUE PROCESS

An Analysis of

Recent Supreme Court Decisions on Student Rights

ROBERT F. KENNEDY MEMORIAL
February 28, 1975

INTRODUCTION

On January 22, 1975, and February 25, 1975, the Supreme Court decided two cases which expand the constitutional and statutory protections available to young people attending public schools.

In *Goss v. Lopez*, the Court held that students have a right to a free public education which cannot be taken away by school officials through suspensions, even temporarily, without due process of law.

In *Wood v. Strickland*, the Court further extended student rights and ruled that in the context of school discipline, school officials may be sued by students for money damages if they knew or reasonably should have known that their actions would violate the constitutional rights of students.

For several years the Robert F. Kennedy Memorial has expressed its concern over the arbitrary and discriminatory use of suspensions and expulsions by school officials. In 1973, the Memorial and the Southern Regional Council issued a joint report on suspensions, *The Student Pushout*. The report documented the fact that the misuse of suspensions by school officials has resulted in thousands of young people being forced from school.

The Memorial has developed this pamphlet with the goal of providing students, parents and community groups with an understanding of what the Supreme Court decisions do and do not hold, as well as with information on how to use those decisions.

Because of the close relationship of school records to school discipline policy, a summary of recently enacted federal legislation on school records has been included.

Any and all parts of this document may be copied and distributed.

Robert F. Kennedy Memorial
1035 30th Street, N. W.
Washington, D. C. 20007
202/338-7444

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WHAT DOES "THE RIGHT TO DUE PROCESS OF LAW" MEAN?

The U. S. Constitution requires that government agencies treat all persons fairly. Specifically, the 14th Amendment states that the government may not "deprive any person of life, liberty or property without due process of law."

Principals, teachers, coaches, school security guards and all other employees of the school are employees of the government and therefore, under the 14th Amendment have a legal duty to treat you fairly.

In Goss v. Lopez, the Supreme Court held that students may not be deprived of the right to attend school through suspensions unless, at a minimum, they are first given oral or written notice of the charges against them. If those charges are denied, the authorities must give an explanation of the evidence which thev have and students must be given a chance to explain their side of the story.

A serious punishment like suspension or expulsion cannot be imposed for a minor breaking of the rules or for the kind of conduct for which other students in the past have received only mild punishment. In addition to requiring that procedures for disciplining students be fair, due process requires that school rules themselves be fair.

WHAT IS "THE RIGHT TO ADEQUATE NOTICE OF THE CHARGES?"

In order to defend yourself, you must know exactly of what you are being accused. The typical suspension letter from a principal to students' parents states that the student is charged with "violating school rules" or "serious misconduct" or "disrespect." These phrases fail to give any idea of what offense has been charged or what rule has been violated. That is not adequate notice of the charges.

Goss requires that the student be told in person what he/she is accused of doing, what school rule is involved and what evidence the authorities have.

DO STUDENTS HAVE A RIGHT TO A HEARING EVERY TIME A TEACHER OR PRINCIPAL WANTS TO PUNISH THEM?

No, only some of the time. If a school official makes a student stay after class or temporarily leave the room, there is no right to a hearing.

However, where school officials attempt to keep a student from attending school for any period of time, the student must be informed of the reason for the suspension, be given an explanation of the evidence against him/her and be allowed to tell his/her side of the story.

WHO HAS THE POWER TO SUSPEND A STUDENT?

In most states only a principal, superintendent or school board can suspend students. Regardless of who attempts to suspend you, the rights outlined here apply. Often the principal will give a dean or vice-principal the authority to suspend students. If someone other than the principal suspends you, check your state law or school district by-laws; in most states the suspension is illegal.

WHEN SHOULD A SUSPENSION HEARING TAKE PLACE?

As a general rule, notice of the charges, explanation of the evidence against you, and a chance to explain your position must be given before you are suspended. The Supreme Court has held in Goss that this is the law.

The Court said, "The only exception applies to students whose presence in school poses a continuing danger to persons or property or an ongoing threat of disrupting the school. In such cases, the necessary notice and hearing should follow as soon as practical."

Keep in mind that when we speak of a "right to a hearing" we are only speaking of what the law will require school officials to do. That does not mean that your school should not be willing, in the interest of fairness, to give you a chance to be heard in any case in which you think you have been treated unjustly. Don't let the fact that you might not have a good court case keep you from insisting on fair treatment at all times.

DO YOU HAVE A RIGHT TO A PRIOR HEARING ANY TIME YOU FACE POSSIBLE SUSPENSION?

Yes, but for short term suspensions the hearing can be very informal. The Supreme Court's decision in Goss requires that for suspensions of less than 10 days you are entitled to at least oral or written notice of the charges against you and if you deny those charges an explanation of the evidence against you and an opportunity to tell your side of the story.

The Supreme Court in Goss held that, in connection with most suspensions of less than 10 days, schools need not allow students the opportunity to have a lawyer, to listen to and question witnesses testifying against them or to call witnesses to support their case.

IS THERE EVER A RIGHT TO A MORE FORMAL HEARING?

Yes. The Supreme Court's decision in Goss outlines what every student's minimum rights are when faced with a suspension of less than ten days. Some courts and several states and school systems have provided students with more extensive hearing rights.

For example, in Washington, D. C., students faced with a suspension of longer than two days must receive a hearing before an impartial hearing official. At this hearing students are entitled to be represented by an attorney, law student or community advocate. They may question witnesses testifying against them and have the right to bring their own witnesses.

For suspensions between five days and ten days similar rights exist in New York, New Jersey, Philadelphia, parts of California, Maryland, North and South Carolina, Virginia, New Hampshire, Washington and several other states.

The Supreme Court also indicated in Goss that in "unusual situations," although involving a suspension of less than ten days, something more than notice and a chance to explain your side might be required. The Court gave no explanation of what circumstances it might regard as unusual (possibly during an exam period or in the case of a very young student) but if you think it would be helpful, you should request the assistance of a lawyer or a community advocate and the right to question witnesses against you and to call your own witnesses.

The point is for parents and students to KNOW YOUR RIGHTS.

If you know what is required of school officials you can insist on that as a minimum and request additional assistance in order to properly protect your rights.

The Supreme Court recognized that a suspension on one's record could seriously damage a student's reputation and interfere with later opportunities for higher education and employment. Therefore, parents and students should emphasize to the principal that they are concerned with obtaining an education and want to remain in school.

EVEN IF THERE IS NO RIGHT TO A FORMAL HEARING (WITH REPRESENTATION BY A LAWYER, THE ABILITY TO QUESTION ACCUSERS AND BRING YOUR OWN WITNESSES) CAN A STUDENT OR PARENT REQUEST ONE?

Yes. The Supreme Court in Goss stated that providing notice of charges and giving a chance for the student to explain his/her position are minimum requirements which are, if anything, less than a fair-minded school principal would impose upon himself in order to avoid unfair suspensions.

In the name of fairness and to emphasize the serious implications of a suspension, students and parents should request that they be allowed the help of an attorney or community advocate. The presence of such a person has often resulted in the student remaining in school.

WHAT ARE YOUR RIGHTS WITH RESPECT TO A SUSPENSION OF LONGER THAN 10 DAYS OR AN EXPULSION?

The Supreme Court did not decide this in Goss, but stated that "longer suspensions (more than 10 days) or expulsions for the remainder of the school term, or permanently, may require more formal proceedings."

Although the Court did not specify what this meant, if faced with this situation you should demand: (A) a written statement of the charges and the evidence against you; (B) that the hearing be held before someone uninvolved in the incident resulting in the charges; (C) an opportunity to face your accusers (including teachers or other students) and to ask them questions; (D) the right to present your own witnesses; (E) an opportunity to bring an attorney or community advocate; (F) a written decision based only on the evidence presented at the hearing.

This hearing should be prior to the suspension or expulsion unless the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the school.

CAN A STUDENT BE PUNISHED FOR VIOLATING A RULE HE/SHE DID NOT KNOW EXISTED?

It usually depends on whether the student should have known of the rule's existence. Some school systems give students copies of the school's rules. In these places students cannot plead ignorance of the law. Furthermore, most courts will find no violation of due process rights if students are punished for disobeying any school policy which is reasonable even if the student was unaware of it and even if it was unwritten. However, the school may not punish you for violating a policy that is unreasonable or which through common practice you had no reason to believe existed.

For example, if you sometimes leave school during a free period instead of going to study hall, and students have never been told of a rule or policy forbidding that, it would be illegal to punish you without a prior warning. On the other hand, if a teacher specifically tells you not to leave and you do, it is likely that you can be punished even in the absence of a written rule.

A variation of this problem is presented by the typical school rule that allows suspension for "misconduct" or "immoral or disreputable conduct," terms which give you little idea of what is prohibited. If you behave in a way which you reasonably think is permissible but which a school official thinks is "misconduct" or "disreputable conduct," a suspension for that behavior is probably illegal. But if the principal warns you that certain acts are prohibited, don't rely on the absence of a written rule as the basis for defying him. Just disobeying a school official is grounds for suspension in most school districts.

CAN SCHOOL OFFICIALS SUSPEND STUDENTS FOR OFF-CAMPUS ACTIVITY?

If the conduct is unrelated to school activities and does not involve a danger to other students then it is questionable whether school officials have any legitimate interest in what you do out of school.

The school has no business interfering with a student's problems at home, although it does have the right to discipline students for misconduct in school that might be the result of those problems.

DOES A STUDENT HAVE A RIGHT TO APPEAL THE DECISION TO SUSPEND?

Most school districts provide for an appeal after the principal's suspension hearing. This appeal usually goes to the superintendent and then to the school board. In some states, the student has a right to a further appeal to the state commissioner or superintendent of education.

Even if the principal provides all of the rights which are outlined here, if you feel that you have not been treated fairly you should appeal to higher school authorities. Of course, a suspension decision can always be challenged in court. The problem with taking a case to court is the length of time needed to get a final decision (usually over one year.) A solution reached through the school system is preferrable where possible.

To appeal a suspension, it is important to have as much evidence as possible to support your position. Wherever possible request written notice of the charges against you and a written copy of the decision to suspend including the reasons for that decision.

BESIDES MATTERS INVOLVING A SUSPENSION OR EXPULSION, ARE THERE OTHER SCHOOL PRACTICES WHICH REQUIRE A HEARING?

The Supreme Court in Goss ruled only on the question of suspensions. However, other disciplinary measures are often just as serious. Therefore, hearings may be required and should be requested in situations involving: (A) disciplinary transfers to another school or to night school; (B) a ban from participation on athletic teams or other school activities such as the school newspaper; (C) placement in special education classes; (D) placement in various "tracks" against your wishes. To satisfy due process fairness, each of these practices may require basic procedural protections for the student.

CAN SCHOOL OFFICIALS BE SUED FOR MONEY DAMAGES FOR VIOLATING THE CONSTITUTIONAL RIGHTS OF A STUDENT?

Yes. In *Wood v. Strickland*, the Supreme Court stated that school board members can be held liable for damages if they knew or reasonably should have known that the action they took would violate the constitutional rights of the student affected, or if they took the action with a malicious intent to deprive the student of constitutional rights or cause other injury.

For example, in an Ohio high school, a student was suspended for wearing an arm band. The student's conduct was identical to that which the Supreme Court had earlier upheld as being protected under the constitutional right of the First Amendment freedom of expression. The suspension was appealed to a federal court which ordered school officials to pay the student money damages and remove all record of the suspension from the student's file.

CAN SCHOOL OFFICIALS AVOID BEING SUED BY CLAIMING THAT THEY DID NOT KNOW THEIR ACTIONS VIOLATED A STUDENT'S RIGHTS?

No. The Supreme Court in *Wood* held that an act which violates a student's constitutional rights cannot be justified by ignorance or disregard of settled, indisputable law by school officials. It is not enough that school officials claim to act with good intentions. They should be held to a standard of conduct based on knowledge of the basic, unquestioned constitutional rights of students.

School officials still have discretion to discipline students, but that discretion must be used fairly, and with the knowledge that they can be held personally accountable in court for their actions.

The *Wood* decision can be especially valuable in dealing with unfair suspensions. Since the Supreme Court in *Goss* has held that constitutional due process requires that a student be given a hearing prior to suspension, it will be impossible for school officials to ignore this constitutional right without risking a suit for money damages.

WHAT YOU CAN DO ABOUT SUSPENSIONS

First, know your rights. Know your school's local suspension or discipline code or policy and find out who makes the decisions to suspend in your schools. Find out more about suspensions and how to prevent them.

Learn what other local schools and districts are doing about suspensions. In many communities some schools have no suspensions while others suspend students in large numbers. One of your most effective arguments in combating the use of suspensions can be that another local school does not suspend anyone.

Working to get a hearing to insure due process is just the beginning. Remember, a hearing does not deal with changing the cause for the suspension itself.

Specific actions you can take:

1) Talk to school officials, other students and parents about suspensions and school discipline. Find out which students are being or have been suspended. Why? By whom? For how long?
2) Find out whether these students were given a hearing. Review local school policies and compare those with the standards of *Goss* or state law. If there are no rights to a hearing, or if that hearing only takes place *after* the suspension, then the

policy must be changed.

3) Work with a local community organization or civil rights group and encourage them to examine your local suspension policy. A meeting of concerned community groups and parents with school officials will often help to decrease suspensions.

4) Let your school board, superintendent and principals know that you believe that suspensions should be used only as a last resort. Finally, if students are suspended request that the school provide some form of alternative educational program and counseling.

5) Inform school officials (preferably through a community organization) that the group intends to monitor the school's use of suspensions.

SCHOOL RECORD KEEPING PRACTICES AND THE PRIVACY RIGHTS OF PARENTS AND STUDENTS

School records are closely related to a school's overall discipline policy. A suspension or other disciplinary action will usually become part of a student's permanent file.

The Family Education Rights and Privacy Act of 1974 requires that all educational institutions that receive funds from the Office of Education, Department of Health, Education and Welfare, must afford parents of students under 18 years of age (or an eighteen year old student) the following rights:

- the right to inspect and review the educational records kept by the school system on that student;
- the right to challenge or request the removal or modification of material felt to be inaccurate, misleading or inappropriate;
- the right to limit the number and type of individuals who will be able to see a student's records;
- the right to receive a list of those individuals who have been permitted by school officials to see a student's records;
- the right to be notified every time a student's records are turned over to a court by judicial order or subpoena;
- the right to be informed by school officials of the provisions of this Act.

This Act is complicated and the regulations that will finalize the procedures which school officials must follow to implement it will not be issued until mid-April.

Regardless of the regulations' final form, it is doubtful that the Department of Health, Education and Welfare will actively enforce the Act's provisions. Solutions to school records problems should be sought locally. Negotiation, organized local pressure and a knowledge of your basic rights will be the key in dealing with school officials.

The greatest significance of the Act is that it gives students, parents and community groups additional ways to monitor school activities. As we have already stated, if you know your rights and inform school officials of this fact, they will tend to be much more responsive to your efforts.

Provisions of the Act dealing with college students have been omitted from this summary. A more detailed analysis of the Act and its regulations can be obtained by writing to the groups listed in the resource section.

WHAT IS MEANT BY EDUCATION RECORDS?

The term includes all records, files, documents and other materials which (1) contain information directly related to a student; (2) are maintained by a school or educational agency or a person working for or representing such an agency.

ARE ANY TYPES OF RECORDS EXCLUDED?

Yes. The following types of information are not covered by the Act: (1) records made by school personnel that are not shared or accessible to any other person; (2) most records of law enforcement units if those police units do not have access to school records and keep their records only for police purposes; (3) personnel records of school employees.

WHAT IS THE PROCEDURE FOR INSPECTING SCHOOL RECORDS?

The Act requires schools to establish local procedures. Access must be given within 45 days from the time a request for inspection is made. In order to prove that you made such a request, make it in writing, date it and keep a copy.

The proposed regulations allow for copies of records to be made at cost or for free, provide that school officials must give an explanation of the educational records if requested, and that parents must be told about the types of records kept by that school.

The 45 day time period is an absolute maximum and you can and should request that the records be made available in a shorter time.

CAN SCHOOLS DESTROY RECORDS?

The Act does not prohibit schools from destroying records. However, the regulations require that once parents or students request access, records cannot be destroyed.

HOW CAN THE CONTENT OF RECORDS BE CHALLENGED?

Schools can use "informal" meetings and discussions to settle parent or student complaints. While such informal conferences may be the quickest way to get results in some cases, in other situations they may not work.

The Act provides for a "hearing" and sets four minimal standards: hearings must be conducted and decided within a reasonable time, they must be conducted by a person not having a direct interest in the outcome; there must be an opportunity for the parent or student to present evidence; and they must receive a written decision within a reasonable time.

There are no provisions for cross-examination of the author of the challenged information or for the presence of an attorney or community advocate. As with suspension hearings, however, you should always request both assistance by a community advocate or attorney and the right to cross-examine the opposing side.

The United States
LAW WEEK

EXTRA EDITION NO. 2
Supreme Court
Opinions

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OPINIONS ANNOUNCED JANUARY 22, 1975

The Supreme Court decided:

No. 73-898

Norval Goss et al., Appellants,
v.
Eileen Lopez et al.

On Appeal from the United States District Court for the Southern District of Ohio.

[January 22, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

This appeal by various administrators of the Columbus, Ohio, Public School System ("CPSS") challenges the judgment of a three-judge federal court, declaring that appellees—various high school students in the CPSS—were denied due process of law contrary to the command of the Fourteenth Amendment in that they were temporarily suspended from their high schools without a hearing either prior to suspension or within a reasonable time thereafter, and enjoining the administrators to remove all references to such suspensions from the students' records.

I

Ohio law, Rev. Code § 3313.64, provides for free education to all children between the ages of six and 21. Section 3313.66 of the Code empowers the principal of an Ohio public school to suspend a pupil for misconduct for up to 10 days or to expel him. In either case, he must notify the student's parents within 24 hours and state the reasons for his action. A pupil who is expelled, or his parents, may appeal the decision to the Board of Education and in connection therewith shall be permitted to be heard at the board meeting. The board may reinstate the pupil following the hearing. No similar procedure is provided in § 3313.66 or any other provision of state law for a suspended student. Aside from a regulation tracking the statute, at the time of the imposition of the suspensions in this case the CPSS had not itself issued any written procedure applicable to suspensions.[1] Nor, so far as the record reflects, had any of the individual high schools involved in this case.[2] Each, however, had formally or informally described the conduct for which suspension could be imposed.

The nine named appellees, each of whom alleged that he or she had been suspended from public high school in Columbus for up to 10 days without a hearing pursuant to § 3313.66, filed an action against the Columbus Board of Education and various administrators of the CPSS under 42 U. S. C. § 1983. The complaint sought a declaration that § 3313.66 was unconstitutional in that it permitted public school administrators to deprive plaintiffs of their rights to an education without a hearing of any kind, in violation of the procedural due process component of the Fourteenth Amendment. It also sought to enjoin the public school officials from issuing future suspensions pursuant to § 3313.66 and to require them to

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[1] At the time of the events involved in this case, the only Administrative regulation on this subject was § 1010.04 of the Administrative Guide of the Columbus Public Schools which provided: "Pupils may be suspended or expelled from school in accordance with the provision of § 3313.66 of the Revised Code." Subsequent to the events involved in this lawsuit, the Department of Pupil Personnel of the CPSS issued three memoranda relating to suspension procedures dated August 16, 1971, February 21, 1973, and July 10, 1973, respectively. The first two are substantially similar to each other and require no fact-finding hearing at any time in connection with a suspension. The third, which was apparently in effect when this case was argued, places upon the principal the obligation to "investigate" "before commencing suspension procedures"; and provides as part of the procedures that the principal shall discuss the case with the pupil, so that the pupil may "be heard with respect to the alleged offense," unless the pupil is "unavailable" for such a discussion or "unwilling" to participate in it. The suspensions involved in this case occurred, and records thereof were made, prior to the effective date of these memoranda. The District Court's judgment, including its expunction order, turns on the propriety of the procedures existing at the time the suspensions were ordered and by which they were imposed.

[2] According to the testimony of Phillip Fulton, the principal of one of the high schools involved in this case, there was an informal procedure applicable at the Marion-Franklin High School. It provided that in the routine case of misconduct, occurring in the presence of a teacher, the teacher would describe the misconduct on a form provided for that purpose and would send the student, with the form, to the principal's office. There, the principal would obtain the student's version of the story, and, if it conflicted with the teacher's written version, would send for the teacher to obtain the teacher's oral version—apparently in the presence of the student. Mr. Fulton testified that, if a discrepancy still existed, the teacher's version would be believed and the principal would arrive at a disciplinary decision based on it.

RESOURCE MATERIALS AND GROUPS

If there is a statewide student rights handbook, obtain a copy and study it. Suspensions and most issues of student rights are governed by state law. Local handbooks should give you good basic information.

Key materials on pushouts and suspensions:

The Student Pushout : Victim of Continued Resistance to Desegregation prepared by the Southern Regional Council and the Robert F. Kennedy Memorial, available for $1.00 from the Memorial at 1035 30th Street, N. W. Washington, D. C. 20007

Children Out of School In America prepared by the Children's Defense Fund, available for $4.00 from the Children's Defense Fund at 1746 Cambridge Street, Cambridge, Massachusetts 02138. (This is the most recent and complete work on the subject.)

The best overall resource book on student rights is *The Rights of Students* prepared by the ACLU and available at either local ACLU offices or from Avon Books, Mail Order Department, 250 W. 55th Street, New York, New York 10019. The cost is 95¢.

Requests for copies of the School Records Act regulations and complaints on local schools' handling of the Act should be addressed to:
School Records Task Force
c/o Room 5660
Department of Health, Education and Welfare
330 Independence Avenue, S. W.
Washington, D. C. 20201

If you have questions on the Act, need help in implementing it locally or would like a more detailed summary of the legislation contact:

Children's Defense Fund
1520 New Hampshire Avenue, N. W.
Washington, D. C. 20036
202/483-1470

National Committee for Citizens in Education
Suite 410
Wilde Lake Village Green
Columbia, Maryland 21044
301/997-9300

Local Resource Information (to be filled in by local contact group):

remove references to the past suspensions from the records of the students in question.[3]

The proof below established that the suspensions in question arose out of a period of widespread student unrest in the CPSS during February and March of 1971. Six of the named plaintiffs, Rudolph Sutton, Tyrone Washington, Susan Cooper, Deborah Fox, Clarence Byars and Bruce Harris, were students at the Marion-Franklin High School and were each suspended for 10 days[4] on account of disruptive or disobedient conduct committed in the presence of the school administrator who ordered the suspension. One of these, Tyrone Washington, was among a group of students demonstrating in the school auditorium while a class was being conducted there. He was ordered by the school principal to leave, refused to do so and was suspended. Rudolph Sutton, in the presence of the principal, physically attacked a police officer who was attempting to remove Tyrone Washington from the auditorium. He was immediately suspended. The other four Marion-Franklin students were suspended for similar conduct. None was given a hearing to determine the operative facts underlying the suspension, but each, together with his or her parents, was offered the opportunity to attend a conference, subsequent to the effective date of the suspension, to discuss the student's future.

Two named plaintiffs, Dwight Lopes and Betty Crome, were students at the Central High School and McGuffey Junior High School, respectively. The former was suspended in connection with a disturbance in the lunchroom which involved some physical damage to school property.[5] Lopes testified that at least 75 other students were suspended from his school on the same day. He also testified below that he was not a party to the destructive conduct but was instead an innocent bystander. Because no one from the school testified with regard to this incident, there is no evidence in the record indicating the official basis for concluding otherwise. Lopes never had a hearing.

Betty Crome was present at a demonstration at a high school different from the one she was attending. There she was arrested together with others, taken to the police station, and released without being formally charged. Before she went to school on the following day, she was notified that she had been suspended for a 10-day period. Because no one from the school testified with respect to this incident, the record does not disclose how the McGuffey Junior High School principal went about making the decision to suspend Betty Crome nor does it disclose on what information the decision was based. It is clear from the record that no hearing was ever held.

There was no testimony with respect to the suspension of the ninth named plaintiff, Carl Smith. The school files were also silent as to his suspension, although as to some, but not all of the other named plaintiffs the files contained either direct references to their suspensions or copies of letters sent to their parents advising them of the suspension.

On the basis of this evidence, the three-judge court declared that plaintiffs were denied due process of law because they were "suspended without hearing prior to suspension or within a reasonable time thereafter," and that § 3316.66 Ohio Rev. Code and regulations issued pursuant thereto were unconstitutional in permitting such suspensions.[6] It was ordered that all references to plaintiffs' suspensions be removed from school files.

Although not imposing upon the Ohio school administrators any particular disciplinary procedures and leaving them "free to adopt regulations providing for fair procedures which are consonant with the educational goals of their schools and reflective of the characteristics of their school and locality," the District Court declared that there were "minimum requirements of notice and hearing prior to suspension, except in emergency situations." In explication, the court stated that relevant case authority would: (1) permit "immediate removal of a student whose conduct disrupts the academic atmosphere of the school, endangers fellow students, teachers or school officials, or damages property"; (2) require notice of suspension proceedings to be sent to the students' parents within 24 hours of the decision to conduct them; and (3) require a hearing to be held, with the student present, within 72 hours of his removal. Finally, the court stated that, with respect to the nature of the hearing, the relevant cases required that statements in support of the charge be produced, that the student and others be permitted to make statements in defense or mitigation, and that the school need not permit attendance by counsel.

The defendant school administrators have appealed the three-judge court's decision. Because the order below granted plaintiffs' request for an injunction—ordering defendants to expunge their records—this Court has jurisdiction of the appeal pursuant to 28 U. S. C. § 1253. We affirm.

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[3] The plaintiffs sought to bring the action on behalf of all students of the Columbus Public Schools suspended on or after February 1971, and a class action was declared accordingly. Since the complaint sought to restrain the "enforcement" and "operation" of a state statute "by restraining the action of any officer of such state in the enforcement or execution of such statute," a three-judge court was requested pursuant to 28 U. S. C. § 2281 and convened. The students also alleged that the conduct for which they could be suspended was not adequately defined by Ohio law. This vagueness and overbreadth argument was rejected by the court below and the students have not appealed from this part of the court's decision.

[4] Deborah Fox was given two separate 10-day suspensions for misconduct occurring on two separate occasions—the second following immediately upon her return to school. In addition to his suspension, Sutton was transferred to another school.

[5] Lopes was actually absent from school, following his suspension, for over 20 days. This seems to have occurred because of a misunderstanding as to the length of the suspension. A letter sent to Lopes after he had been out for over 10 days purports to assume that, being over compulsory school age, he was voluntarily staying away. Upon asserting that this was not the case, Lopes was transferred to another school.

[6] In its judgment, the court stated that the statute is unconstitutional in that it provides "for suspension without *first* affording the student due process of law." (Emphasis supplied.) However, the language of the judgment must be read in light of the language in the opinion which expressly contemplates that under some circumstances students may properly be removed from school before a hearing is held, so long as the hearing follows promptly.

II

At the outset, appellants contend that because there is no constitutional right to an education at public expense, the Due Process Clause does not protect against expulsions from the public school system. This position misconceives the nature of the issue and is refuted by prior decisions. The Fourteenth Amendment forbids the State to deprive any person of life, liberty or property without due process of law. Protected interests in property are normally "not created by the Constitution. Rather, they are created and their dimensions are defined" by an independent source such as state statutes or rules entitling the citizen to certain benefits. *Board of Regents* v. *Roth*, 408 U. S. 564, 577 (1972).

Accordingly, a state employee who under state law, or rules promulgated by state officials, has a legitimate claim of entitlement to continued employment absent sufficient cause for discharge may demand the procedural protections of due process. *Connell* v. *Higginbotham*, 403 U. S. 207 (1971); *Wieman* v. *Updegraff*, 344 U. S. 183, 191–192 (1952); *Arnett* v. *Kennedy*, 416 U. S. 134 (1974), 164 (Powell, J., concurring); 171 (White, J., concurring and dissenting). So may welfare recipients who have statutory rights to welfare as long as they maintain the specified qualifications. *Goldberg* v. *Kelly*, 397 U. S. 254 (1970). *Morrissey* v. *Brewer*, 408 U. S. 471 (1972), applied the limitations of the Due Process Clause to governmental decisions to revoke parole, although a parolee has no constitutional right to that status. In like vein was *Wolff* v. *McDonnell*, 418 U. S. 539 (1974), where the procedural protections of the Due Process Clause were triggered by official cancellation of a prisoner's good-time credits accumulated under state law, although those benefits were not mandated by the Constitution.

Here, on the basis of state law, appellees plainly had legitimate claims of entitlement to a public education. Ohio Rev. Code §§ 3313.48 and 3313.64 direct local authorities to provide a free education to all residents between six and 21 years of age, and a compulsory attendance law requires attendance for a school year of not less than 32 weeks. Ohio Rev. Code § 3321.04. It is true that § 3313.66 of the code permits school principals to suspend students for up to two weeks; but suspensions may not be imposed without any grounds whatsoever. All of the schools had their own rules specifying the grounds for expulsion or suspension. Having chosen to extend the right to an education to people of appellees' class generally, Ohio may not withdraw that right on grounds of misconduct absent fundamentally fair procedures to determine whether the misconduct has occurred. *Arnett* v. *Kennedy*, *supra*, at 164 (Powell, J., concurring); 171 (White, J., concurring and dissenting); 206 (Marshall, J., dissenting).

Although Ohio may not be constitutionally obligated to establish and maintain a public school system, it has nevertheless done so and has required its children to attend. Those young people do not "shed their constitutional rights" at the schoolhouse door. *Tinker* v. *Des Moines Community School District*, 393 U. S. 503, 506 (1969). "The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures . . . Boards of Education not excepted." *West Virginia* v. *Barnette*, 319 U. S. 624, 637 (1943). The authority possessed by the State to prescribe and enforce standards of conduct in its schools, although concededly very broad, must be exercised consistently with constitutional safeguards. Among other things, the State is constrained to recognize a student's legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that clause.

The Due Process Clause also forbids arbitrary deprivations of liberty. "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him," the minimal requirements of the clause must be satisfied. *Wisconsin* v. *Constantineau*, 400 U. S. 433, 437 (1971); *Board of Regents* v. *Roth*, *supra*, at 573. School authorities here suspended appellees from school for periods of up to 10 days based on charges of misconduct. If sustained and recorded, those charges could seriously damage the students' standing with their fellow pupils and their teachers as well as interfere with later opportunities for higher education and employment.[7] It is apparent that the claimed right of the State to determine unilaterally and without process whether that misconduct has occurred immediately collides with the requirements of the Constitution.

Appellants proceed to argue that even if there is a right to a public education protected by the Due Process Clause generally, the clause comes into play only when the State subjects a student to a "severe detriment or grievous loss." The loss of 10 days, it is said, is neither severe nor grievous and the Due Process Clause is therefore of no relevance. Appellee's argument is again refuted by our prior decisions; for in determining "whether due process requirements apply in the first place, we must look not to the 'weight' but to the *nature* of the interest at stake." *Board of Regents* v. *Roth*, *supra*, at 570–571. Appellees were excluded from school only temporarily, it is true, but the length and consequent severity of a deprivation, while another factor to weigh in determining the appropriate form of hearing, "is not decisive of the basic right" to a hearing of some kind. *Fuentes* v. *Shevin*, 407 U. S. 67, 86 (1972). The Court's view has been that as long as a property deprivation is not *de minimis*, its gravity is irrelevant to the question whether account must be taken of the Due Process Clause. *Sniadach* v. *Family Finance Corp.*, 395 U. S. 337, 342 (Harlan, J., concurring); *Boddie* v. *Connecticut*, 401 U. S. 371, 378–379; *Board of Regents* v. *Roth*, *supra*, p. 570 n. 8. A 10-day suspension from school is not *de minimis* in our view and may not be imposed in complete disregard of the Due Process Clause.

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[7] Amici Curiae, Children's Defense Fund of the Washington Research Project, Inc., and the American Friends Service Committee assert in their brief that four of 12 randomly selected Ohio colleges specifically inquire of the high school of every applicant for admission whether the applicant has ever been suspended. Amici also contend that many employers request similar information.

Congress has recently enacted legislation limiting access to information contained in the files of a school receiving federal funds. Education Amendments of 1974, P. L. 93-380, § 513. That section would preclude release of "verified reports of serious or recurrent behavior patterns" to employers without written consent of the student's parents. While § 513 (b)(1)(B) permits release of such information to "other schools . . . in which the student intends to enroll," it does so only upon condition that the parent be advised of the release of the information and be given an opportunity at a hearing to challenge the content of the information to insure against inclusion of inaccurate or misleading information. The statute does not expressly state whether the parent can contest the underlying basis for a suspension, the fact of which is contained in the student's school record.

A short suspension is of course a far milder deprivation than expulsion. But, "education is perhaps the most important function of state and local governments." *Brown* v. *Board of Education*, 347 U. S. 483, 493 (1954), and the total exclusion from the educational process for more than a trivial period, and certainly if the suspension is for 10 days, is a serious event in the life of the suspended child. Neither the property interest in educational benefits temporarily denied nor the liberty interest in reputation, which is also implicated, is so insubstantial that suspensions may constitutionally be imposed by any procedure the school chooses, no matter how arbitrary.[8]

III

"Once it is determined that due process applies, the question remains what process is due." *Morrissey* v. *Brewer*, *supra*, at 481. We turn to that question, fully realizing as our cases regularly do that the interpretation and application of the Due Process Clause are intensely practical matters and that "the very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation." *Cafeteria Workers* v. *McElroy*, 367 U. S. 886, 895 (1961). We are also mindful of our own admonition that

> "Judicial interposition in the operation of the public school system of the Nation raises problems requiring care and restraint. . . . By and large, public education in our Nation is committed to the control of state and local authorities." *Epperson* v. *Arkansas*, 393 U. S. 97, 104.

There are certain bench marks to guide us, however. *Mullane* v. *Central Hanover Trust Co.*, 339 U. S. 306 (1950), a case often invoked by later opinions, said that "many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Id.*, at 313. "[T]he fundamental requisite of due process of law is the opportunity to be heard," *Grannis* v. *Ordean*, 234 U. S. 385,

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[8] Since the landmark decision of the Court of Appeals for the Fifth Circuit in *Dixon* v. *Alabama State Board of Education*, 294 F. 2d 150 (CA5), cert. denied, 368 U. S. 930 (1961), the lower federal courts have uniformly held the Due Process Clause applicable to decisions made by tax supported educational institutions to remove a student from the institution long enough for the removal to be classified as an expulsion. *Hagopian* v. *Knowlton*, 470 F. 2d 201, 211 (CA2 1970); *Wasson* v. *Trowbridge*, 382 F. 2d 807, 812 (CA2 1967); *Esteban* v. *Central Missouri State College*, 415 F. 2d 1077, 1089 (CA8 1969), cert. denied, 398 U. S. 965 (1970); *Vought* v. *Van Buren Public Schools*, 306 F. Supp. 1388 (ED Mich. 1969); *Whitfield* v. *Simpson*, 312 F. Supp. 889 (ED Ill. 1970); *Fielder* v. *Board of Education of School District of Winnebago, Neb.*, 346 F. Supp. 722, 729 (Neb. 1972); *De Jesus* v. *Penberthy*, 344 F. Supp. 70, 74 (Conn. 1972); *Soglin* v. *Kaufman*, 295 F. Supp. 978, 994 (WD Wis. 1968), aff'd, 418 F. 2d 163 (CA7 1969); *Stricklin* v. *Regents of University of Wisconsin*, 297 F. Supp. 416, 420 (WD Wis. 1969), appeal dismissed, 420 F. 2d 1257 (CA7 1970); *Buck* v. *Carter*, 308 F. Supp. 1246 (WD Wis. 1970); General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education, 45 F. R. D. 133, 147–148 (WD Mo. 1968), en banc. The lower courts have been less uniform, however, on the question whether removal from school for some shorter period may ever be so trivial a deprivation as to require no process, and, if so, how short the removal must be to qualify. Circuit courts have held or assumed the Due Process Clause applicable to long suspensions, *Pervis* v. *LaMarque Ind. School District*, 466 F. 2d 1054 (CA5 1972), to indefinite suspensions, *Sullivan* v. *Houston Independent School District*, 475 F. 2d 1071 (CA5), cert. denied, 414 U. S. 1032 (1973), the addition of a 30-day suspension to a 10-day suspension, *Williams* v. *Dade County School Board*, 441 F. 2d 299 (CA5 1971), to a 10-day suspension, *Black Students of North Fort Myers Jr.-Sr. High School* v. *Williams*, 470 F. 2d 957 (CA5 1972), to "mild" suspensions, *Farrell* v. *Joel*, 437 F. 2d 160 (CA2 1971), and *Tate* v. *Board of Education*, 453 F. 2d 975 (CA8 1972), and to a three-day suspension, *Shanley* v. *Northeast Ind. School District, Bexar County, Texas*, 462 F. 2d 960, 967 n. 4 (CA5 1972); and inapplicable to a seven-day suspension, *Linwood* v. *Peoria*, 463 F. 2d 763 (CA7), cert. denied, 409 U. S. 1027 (1972), a three-day suspension, *Dunn* v. *Tyler*, 460 F. 2d 137 (CA5 1972), to a suspension for "not more than a few days," *Murray* v. *West Baton Rouge Parish School Board*, 472 F. 2d 438 (CA5 1973), and to all suspensions no matter how short, *Black Coalition* v. *Portland School District No. 1*, 484 F. 2d 1040 (CA9 1973). The federal district courts have held the Due Process Clause applicable to an interim suspension pending expulsion proceedings in *Stricklin* v. *Regents of University of Wisconsin*, *supra*, and *Buck* v. *Carter*, *supra*, to a 10-day suspension, *Banks* v. *Board of Public Instruction of Dade County*, 314 F. Supp. 285 (SD Fla. 1970), vacated, 401 U. S. 988 (1971) (for entry of a fresh decree so that a timely appeal might be taken to the Court of Appeals), aff'd, 450 F. 2d 1103 (CA5 1971), to suspensions of under five days, *Vail* v. *Board of Education*, 354 F. Supp. 592 (N. H. 1973), and to all suspensions, *Mills* v. *Board of Education*, 348 F. Supp. 866 (D.C. 1972), and *Givens* v. *Poe*, 346 F. Supp. 202 (WDNC 1972); and inapplicable to suspensions of 25 days, *Hernandez* v. *School District Number One, Denver, Colorado*, 315 F. Supp. 289 (Colo. 1970), to suspensions of 10 days, *Baker* v. *Downey City Board of Education*, 307 F. Supp. 517 (CD Cal. 1969), and to suspensions of eight days, *Hatter* v. *Los Angeles City High School District*, 310 F. Supp. 1309 (Cal. 1970), rev'd on other grounds, 452 F. 2d 673 (CA9 1971). In the cases holding no process necessary in connection with short suspensions, it is not always clear whether the court viewed the Due Process Clause as inapplicable, or simply felt that the process received was "due" even in the absence of some kind of hearing procedure.

394 (1914), a right that "has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to . . . contest." *Mullane* v. *Central Hanover Trust Co., supra*, at 314. *Armstrong* v. *Manzo*, 380 U. S. 545, 550 (1965); *Anti-Fascist Committee* v. *McGrath*, 341 U. S. 123, 168-169 (1951) (Frankfurter, J., concurring). At the very minimum, therefore, students facing suspension and the consequent interference with a protected property interest must be given *some* kind of notice and afforded *some* kind of hearing. "Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified." *Baldwin* v. *Hale*, 68 U. S. 223, 233 (1863).

It also appears from our cases that the timing and content of the notice and the nature of the hearing will depend on appropriate accommodation of the competing interests involved. *Cafeteria Workers* v. *McElroy, supra*, at 895; *Morrissey* v. *Brewer, supra*, at 481. The student's interest is to avoid unfair or mistaken exclusion from the educational process, with all of its unfortunate consequences. The Due Process Clause will not shield him from suspensions properly imposed, but it disserves both his interest and the interest of the State if his suspension is in fact unwarranted. The concern would be mostly academic if the disciplinary process were a totally accurate, unerring process, never mistaken and never unfair. Unfortunately, that is not the case, and no one suggests that it is. Disciplinarians, although proceeding in utmost good faith, frequently act on the reports and advice of others; and the controlling facts and the nature of the conduct under challenge are often disputed. The risk of error is not at all trivial, and it should be guarded against if that may be done without prohibitive cost or interference with the educational process.

The difficulty is that our schools are vast and complex. Some modicum of discipline and order is essential if the educational function is to be performed. Events calling for discipline are frequent occurrences and sometimes require immediate, effective action. Suspension is considered not only to be a necessary tool to maintain order but a valuable educational device. The prospect of imposing elaborate hearing requirements in every suspension case is viewed with great concern, and many school authorities may well prefer the untrammeled power to act unilaterally, unhampered by rules about notice and hearing. But it would be a strange disciplinary system in an educational institution if no communication was sought by the disciplinarian with the student in an effort to inform him of his defalcation and to let him tell his side of the story in order to make sure that an injustice is not done. "[F]airness can rarely be obtained by secret, one-sided determination of the facts decisive of rights. . . . Secrecy is not congenial to truth-seeking and self-righteousness gives too slender an assurance of rightness. No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it." *Anti-Fascist Committee* v. *McGrath, supra*, at 170-172 (Frankfurter, J., concurring).[9]

We do not believe that school authorities must be totally free from notice and hearing requirements if their schools are to operate with acceptable efficiency. Students facing temporary suspension have interests qualifying for protection of the Due Process Clause, and due process requires, in connection with a suspension of 10 days or less, that the student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story. The clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school.[10]

There need be no delay between the time "notice" is given and the time of the hearing. In the great majority of cases the disciplinarian may informally discuss the alleged misconduct with the student minutes after it has occurred. We hold only that, in being given an opportunity to explain his version of the facts at this discussion, the student first be told what he is accused of doing and what the basis of the accusation is. Lower courts which have addressed the question of the *nature* of the procedures required in short suspension cases have reached the same conclusion. *Tate* v. *Board of Education*, *supra*, at 979; *Vail* v. *Board of Education*, *supra*, at 603. Since the hearing may occur almost immediately following the misconduct, it follows that as a general rule notice and hearing should precede removal of the student from school. We agree with the District Court, however, that there are recurring situations in which prior notice and hearing cannot be insisted upon. Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school. In such cases, the necessary notice and rudimentary hearing should follow as soon as practicable, as the District Court indicated.

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[9] The facts involved in this case illustrate the point. Betty Crome was suspended for conduct which did not occur on school grounds, and for which mass arrests were made—hardly guarantying careful individualized factfinding by the police or by the school principal. She claims to have been involved in no misconduct. However, she was suspended for 10 days without ever being told what she was accused of doing or being given an opportunity to explain her presence among those arrested. Similarly, Dwight Lopez was suspended, along with many others, in connection with a disturbance in the lunchroom. Lopez says he was not one of those in the lunchroom who was involved. However, he was never told the basis for the principal's belief that he was involved, nor was he ever given an opportunity to explain his presence in the lunchroom. The school principals who suspended Crome and Lopez may have been correct on the merits, but it is inconsistent with the Due Process Clause to have made the decision that misconduct had occurred without at some meaningful time giving Crome or Lopez an opportunity to persuade the principals otherwise.

We recognize that both suspensions were imposed during a time of great difficulty for the school administrations involved. At least in Lopez' case there may have been an immediate need to send home everyone in the lunchroom in order to preserve school order and property; and the administrative burden of providing 75 "hearings" of any kind is considerable. However, neither factor justifies a disciplinary suspension without at any time gathering facts relating to Lopez specifically, confronting him with them, and giving him an opportunity to explain.

[10] Appellants point to the fact that some process is provided under Ohio law by way of judicial review. Ohio Rev. Code § 2501.06. Appellants do not cite any case in which this general administrative review statute has been used to appeal from a disciplinary decision by a school official. If it be assumed that it could be so used, it is for two reasons insufficient to save inadequate procedures at the school level. First, although new proof may be offered in a § 2501.06 proceeding, *Shaker Coventry Corp.* v. *Shaker Heights*, 176 N. E. 2d 332, the proceeding is not *de novo*. *In re Locke*, 294 N. E. 2d 230. Thus the decision by the school—even if made upon inadequate procedures—is entitled to weight in the court proceeding. Second, without a demonstration to the contrary, we must assume that delay will attend any § 2501.06 proceeding, that the suspension will not be stayed pending hearing, and that the student meanwhile will irreparably lose his educational benefits.

In holding as we do, we do not believe that we have imposed procedures on school disciplinarians which are inappropriate in a classroom setting. Instead we have imposed requirements which are, if anything, less than a fair-minded school principal would impose upon himself in order to avoid unfair suspensions. Indeed, according to the testimony of the principal of Marion-Franklin High School, that school had an informal procedure, remarkably similar to that which we now require, applicable to suspensions generally but which was not followed in this case. Similarly, according to the most recent memorandum applicable to the entire CPSS, see n. 1, *supra*, school principals in the CPSS are now required by local rule to provide at least as much as the constitutional minimum which we have described.

We stop short of construing the Due Process Clause to require, countrywide, that hearings in connection with short suspensions must afford the student the opportunity to secure counsel, to confront and cross-examine witnesses supporting the charge or to call his own witnesses to verify his version of the incident. Brief disciplinary suspensions are almost countless. To impose in each such case even truncated trial type procedures might well overwhelm administrative facilities in many places and, by diverting resources, cost more than it would save in educational effectiveness. Moreover, further formalizing the suspension process and escalating its formality and adversary nature may not only make it too costly as a regular disciplinary tool but also destroy its effectiveness as part of the teaching process.

On the other hand, requiring effective notice and informal hearing permitting the student to give his version of the events will provide a meaningful hedge against erroneous action. At least the disciplinarian will be alerted to the existence of disputes about facts and arguments about cause and effect. He may then determine himself to summon the accuser, permit cross-examination and allow the student to present his own witnesses. In more difficult cases, he may permit counsel. In any event, his discretion will be more informed and we think the risk of error substantially reduced.

Requiring that there be at least an informal give-and-take between student and disciplinarian, preferably prior to the suspension, will add little to the factfinding function where the disciplinarian has himself witnessed the conduct forming the basis for the charge. But things are not always as they seem to be, and the student will at least have the opportunity to characterize his conduct and put it in what he deems the proper context.

We should also make it clear that we have addressed ourselves solely to the short suspension, not exceeding 10 days. Longer suspensions or expulsions for the remainder of the school term, or permanently, may require more formal procedures. Nor do we put aside the possibility that in unusual situations, although involving only a short suspension, something more than the rudimentary procedures will be required.

IV

The District Court found each of the suspensions involved here to have occurred without a hearing, either before or after the suspension, and that each suspension was therefore invalid and the statute unconstitutional insofar as it permits such suspensions without notice or hearing. Accordingly, the judgment is

Affirmed.

MR. JUSTICE POWELL, with whom THE CHIEF JUSTICE, MR. JUSTICE BLACKMUN, and MR. JUSTICE REHNQUIST join, dissenting.

The Court today invalidates an Ohio statute that permits student suspensions from school without a hearing "for not more than ten days."[1] The decision unnecessarily opens avenues for judicial intervention in the operation of our public schools that may affect adversely the quality of education. The Court holds for the first time that the federal courts, rather than educational officials and state legislatures, have the authority to determine the rules applicable to routine classroom discipline of children and teenagers in the public schools. It justifies this unprecedented intrusion into the process of elementary and secondary education by identifying a new constitutional right: the right of a student not to be suspended for as much as a single day without notice and a due process hearing either before or promptly following the suspension.[3]

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[1] The Ohio Statute, § 3313.66 of the Ohio Rev. Code, actually is a limitation on the time-honored practice of school authorities determining themselves the appropriate duration of suspensions. The statute allows the superintendent or principal of a public school to suspend a pupil "for *not more than ten days* . . ." (italics supplied); and requires notification of the parent or guardian in writing within 24 hours of any suspension.

[2] Section 3313.66 also provides authority for the expulsion of pupils, but requires a hearing thereon by the school board upon request of a parent or guardian. The rights of pupils expelled are not involved in this case, which concerns only the limited discretion of school authorities to suspend for not more than 10 days. Expulsion, usually resulting at least in loss of a school year or semester, is an incomparably more serious matter than the brief suspension, traditionally used as the principal sanction for enforcing routine discipline. The Ohio statute recognizes this distinction.

[3] The Court speaks of "exclusion from the educational process for more than a trivial period . . . ," *ante*, at 10, but its opinion makes clear that even one day's suspension invokes the constitutional procedure mandated today.

The Court's decision rests on the premise that, under Ohio law, education is a property interest protected by the Fourteenth Amendment's Due Process Clause and therefore that any suspension requires notice and a hearing.[4] In my view, a student's interest in education is not infringed by a suspension within the limited period prescribed by Ohio law. Moreover, to the extent that there may be some arguable infringement, it is too speculative, transitory and insubstantial to justify imposition of a *constitutional* rule.

I

Although we held in *San Antonio Independent School Dist.* v. *Rodriguez*, 411 U. S. 1, 35 (1973), that education is not a right protected by the Constitution, Ohio has elected by statute to provide free education for all youths age six to 21, Ohio Rev. Code §§ 3313.48, 3313.64, with children under 18 years of age being compelled to attend school. *Id.*, at § 3321.01 *et seq.* State law, therefore, extends the right of free public school education to Ohio students in accordance with the education laws of that State. The right or entitlement to education so created is protected in a proper case by the Due Process Clause. See, *e. g.*, *Board of Regents* v. *Roth*, 408 U. S. 564 (1972); *Arnett* v. *Kennedy*, 416 U. S. 134, 164 (1974) (POWELL, J., concurring). In my view, this is not such a case.

In identifying property interests subject to due process protections, the Court's past opinions make clear that these interests "are created and their *dimensions are defined* by existing rules and understandings that stem from an independent source such as state law." *Board of Regents* v. *Roth*, *supra*, 408 U. S., at 577 (emphasis supplied). The Ohio statute that creates the right to a "free" education also explicitly authorizes a principal to suspend a student for up to 10 days. Ohio Rev. Stat. §§ 3313.48, 3313.64, 3313.66. Thus the very legislation which "defines" the "dimension" of the student's entitlement, while providing a right to education generally, does not establish this right free of discipline imposed in accord with Ohio law. Rather, the right is encompassed in the entire package of statutory provisions governing education in Ohio—of which the power to suspend is one.

The Court thus disregards the basic structure of Ohio law in posturing this case as if Ohio had conferred an unqualified right to education, thereby compelling the school authorities to conform to due process procedures in imposing the most routine discipline.[5]

But however one may define the entitlement to education provided by Ohio law, I would conclude that a deprivation of not more than 10 days' suspension from school, imposed as a routine disciplinary measure, does not assume constitutional dimensions. Contrary to the Court's assertion, our cases support rather than "refute" appellant's argument that "the Due Process Clause . . . comes into play only when the State subjects a student to a 'severe detriment or a grievous loss.'" *Ante*, at 10. Recently, the Court reiterated precisely this standard for analyzing due process claims:

> "Whether *any* procedural protections are due depends on the extent to which an individual will be 'condemned to suffer *grievous* loss.' *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123, 168 (1951) (Frankfurter, J., concurring), quoted in *Goldberg* v. *Kelly*, 397 U. S. 254, 263 (1970)." *Morrissey* v. *Brewer*, 408 U. S. 471, 481 (1972) (emphasis supplied).

In *Morrissey* we applied that standard to require due process procedures for parole revocation on the ground that revocation "inflicts a 'grievous loss' on the parolee and often on others." *Id.*, at 482. See also *Board of Regents* v. *Roth*, *supra*, 408 U. S., at 573 ("seriously damage" reputation and standing); *Bell* v. *Burson*, 402 U. S. 535, 539 (1971) ("important interests of the licensees"); *Boddie* v. *Connecticut*, 401 U. S. 371, 379 (1971) ("significant property interest").[7]

The Ohio suspension statute allows no serious or significant infringement of education. It authorizes only a maximum suspension of eight school days, less than 5% of the normal 180-day school year. Absences of such limited duration will rarely affect a pupil's opportunity to learn or his scholastic performance. Indeed, the record in this case reflects no educational injury to appellees. Each completed the semester in which the suspension occurred and performed at least as well as he or she had in previous years.[6] Despite the Court's unsupported speculation that a suspended student could be "seriously damaged" (*ante*, at 9), there is no factual showing of any such damage to appellees.

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[4] The Court apparently reads into Ohio law by implication a qualification that suspensions may be imposed only for "cause," thereby analogizing this case to the Civil Service laws considered in *Arnett* v. *Kennedy*, *supra*. To be sure, one may assume that pupils are not suspended at the whim or caprice of the school official, and the statute does provide for notice of the suspension with the "reasons therefor." But the same statute draws a sharp distinction between suspension and the far more drastic sanction of expulsion. A hearing is required only for the latter. To follow the Court's analysis, one must conclude that the legislature nevertheless intended—without saying so—that suspension also is of such consequence that it may be imposed only for causes which can be justified at a hearing. The unsoundness of reading this sort of requirement into the statute is apparent from a comparison with *Arnett*. In that case, Congress expressly provided that nonprobationary federal employees should be discharged only for "cause." This requirement reflected congressional recognition of the seriousness of discharging such employees. There simply is no analogy between termination of nonprobationary employment of a civil service employee and the suspension of a public school pupil for not more than 10 days. Even if the Court is correct in implying some concept of justifiable cause in the Ohio procedure, it could hardly be stretched to the constitutional proportions found present in *Arnett*.

[5] Indeed, the Court itself quotes from a portion of Justice Frankfurter's concurrence in *Joint Anti-Fascist Refugee Committee* v. *McGrath*, *supra*, which explicitly refers to "a person in jeopardy of *serious loss*." 341 U. S., at 173; see *ante*, at 14 (emphasis supplied).

Nor is the "de minimis" standard referred to by the Court relevant in this case. That standard was first stated by Justice Harlan in a concurring opinion in *Sniadach* v. *Family Finance Corp.*, 395 U. S. 337, 342 (1969), and then quoted in a footnote to the Court's opinion in *Fuentes* v. *Shevin*, 407 U. S. 69, 90, n. 21 (1972). Both *Sniadach* and *Fuentes*, however, involved resolution of property disputes between two private parties claiming an interest in the same property. Neither case pertained to an interest conferred by the State.

[6] Appendix, at 153–171 (testimony of Norval Goss, Director of Pupil Personnel). See opinion of the three-judge court, Jurisdictional Statement, at 43, 44.

[7] See also *Wisconsin* v. *Constantineau*, 400 U. S. 433, 437 (1971), quoting the "grievous loss" standard first articulated in *Joint Anti-Fascist Committee* v. *McGrath*, *supra*.

The Court also relies on a perceived deprivation of "liberty" resulting from any suspension, arguing—again without factual support in the record pertaining to these appellees—that a suspension harms a student's reputation. In view of the Court's decision in *Board of Regents* v. *Roth*, *supra*, I would have thought that this argument was plainly untenable. Underscoring the need for "serious damage" to reputation, the *Roth* Court held that a nontenured teacher who is not rehired by a public university could not claim to suffer sufficient reputational injury to require constitutional protections.[7] Surely a brief suspension is of less serious consequence to the reputation of a teenage student.

II

In prior decisions, this Court has explicitly recognized that school authorities must have broad discretionary authority in the daily operation of public schools. This includes wide latitude with respect to maintaining discipline and good order. Addressing this point specifically, the Court stated in *Tinker* v. *Des Moines School Dist.*, 393 U. S. 503, 507 (1969):

> "[T]he Court has repeatedly emphasized the need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools."[8]

Such an approach properly recognizes the unique nature of public education and the correspondingly limited role of the judiciary in its supervision. In *Epperson* v. *Arkansas*, 393 U. S. 97, 104 (1968), the Court stated:

> "By and large, public education in our Nation is committed to the control of state and local authorities. Courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate basic constitutional values."

The Court today turns its back on these precedents. It can hardly seriously be claimed that a school principal's decision to suspend a pupil for a single day would "directly and sharply implicate basic constitutional values." *Epperson*, *supra*.

Moreover, the Court ignores the experience of mankind, as well as the long history of our law, recognizing that there *are* differences which must be accommodated in determining the rights and duties of children as compared with those of adults. Examples of this distinction abound in our law: in contracts, in torts, in criminal law and procedure, in criminal sanctions and rehabilitation, and in the right to vote and to hold office. Until today, and except in the special context of the First Amendment issue in *Tinker*, the educational rights of children and teenagers in the elementary and secondary schools have not been analogized to the rights of adults or to those accorded college students. Even with respect to the First Amendment, the rights of children have not been regarded as "coextensive with those of adults." MR. JUSTICE STEWART, concurring in *Tinker*, *supra*, at 515.

A

I turn now to some of the considerations which support the Court's former view regarding the comprehensive authority of the States and school officials "to prescribe and control conduct in the schools." *Tinker*, *supra*, at 507. Unlike the divergent and even sharp conflict of interests usually present where due process rights are asserted, the interests here implicated—of the State through its schools and of the pupils—are essentially congruent.

The State's interest, broadly put, is in the proper functioning of its public school system for the benefit of *all* pupils and the public generally. Few rulings would interfere more extensively in the daily functioning of schools than subjecting routine discipline to the formalities and judicial oversight of due process. Suspensions are one of the traditional means—ranging from keeping a student after class to permanent expulsion—used to maintain discipline in the schools. It is common knowledge that maintaining order and reasonable decorum in school buildings and classrooms is a major educational problem, and one which has increased significantly in magnitude in recent years.[9] Often the teacher, in protecting the rights of other children to an education (if not his or their safety), is compelled to rely on the power to suspend.

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[8] In dissent on the First Amendment issue, Mr. Justice Harlan recognized the Court's basic agreement on the limited role of the judiciary in overseeing school disciplinary decisions:

"I am reluctant to believe that there is any disagreement between the majority and myself on the proposition that school officials should be accorded the widest authority in maintaining discipline and good order in their institutions." *Id.*, at 526.

[9] See generally S. Bailey, Disruption in Urban Secondary Schools (1970), which summarizes some of the recent surveys on school disruption. A Syracuse University study, for example, found that 85% of the schools responding reported some type of significant disruption in the years 1967–1970.

[10] An *amicus* brief filed by the Children's Defense Fund states that *at least 10%* of the junior and senior high school students in the States sampled were suspended *one or more* times in the 1972–1973 school year. The data on which this conclusion rests were obtained from an extensive survey prepared by the Office for Civil Rights of the Department of Health, Education, and Welfare. The Children's Defense Fund reviewed the suspension data for five States—Arkansas, Maryland, New Jersey, Ohio, and South Carolina.

Likewise, an *amicus* brief submitted by several school associations in Ohio indicates that the number of suspensions is significant: in 1972–1973, 4,054 students out of a school enrollment of 81,007 were suspended in Cincinnati; 7,352 of 57,000 students were suspended in Akron; and 14,598 of 142,053 students were suspended in Cleveland. See also the Office of Civil Rights Survey, *supra*, finding that approximately 20,000 students in New York City, 12,000 in Cleveland, 9,000 in Miami, and 9,000 in Memphis were suspended at least once during the 1972–1973 school year. Even these figures are probably somewhat conservative since some schools did not reply to the survey.

[11] See generally J. Dobson, Dare to Discipline (1972).

The facts set forth in the margin[10] leave little room for doubt as to the magnitude of the disciplinary problem in the public schools, or as to the extent of reliance upon the right to suspend. They also demonstrate that if hearings were required for a substantial percentage of short-term suspensions, school authorities would have time to do little else.

B

The State's generalized interest in maintaining an orderly school system is not incompatible with the individual interest of the student. Education in any meaningful sense includes the inculcation of an understanding in each pupil of the necessity of rules and obedience thereto. This understanding is no less important than learning to read and write. One who does not comprehend the meaning and necessity of discipline is handicapped not merely in his education but throughout his subsequent life. In an age when the home and church play a diminishing role in shaping the character and value judgments of the young, a heavier responsibility falls upon the schools. When an immature student merits censure for his conduct, he is rendered a disservice if appropriate sanctions are not applied or if procedures for their application are so formalized as to invite a challenge to the teacher's authority[11]—an invitation which rebellious or even merely spirited teenagers are likely to accept.

The lesson of discipline is not merely a matter of the student's self-interest in the shaping of his own character and personality; it provides an early understanding of the relevance to the social compact of respect for the rights of others. The classroom is the laboratory in which this lesson of life is best learned. Mr. Justice Black summed it up:

> "School discipline, like parental discipline, is an integral and important part of training our children to be good citizens—to be better citizens." *Tinker*, *supra*, at 524 (dissenting opinion).

In assessing in constitutional terms the need to protect pupils from unfair minor discipline by school authorities, the Court ignores the commonality of interest of the State and pupils in the public school system. Rather, it thinks in traditional judicial terms of an adversary situation. To be sure, there will be the occasional pupil innocent of any rule infringement who is mistakenly suspended or whose infraction is too minor to justify suspension. But, while there is no evidence indicating the frequency of unjust suspensions, common sense suggests that they will not be numerous in relation to the total number, and that mistakes or injustices will usually be righted by informal means.

C

One of the more disturbing aspects of today's decision is its indiscriminate reliance upon the judiciary, and the adversary process, as the means of resolving many of the most routine problems arising in the classroom. In mandating due process procedures the Court misapprehends the reality of the normal teacher-pupil relationship. There is an ongoing relationship, one in which the teacher must occupy many roles—educator, adviser, friend and, at times, parent-substitute.[12] It is rarely adversary in nature except with respect to the chronically disruptive or insubordinate pupil whom the teacher must be free to discipline without frustrating formalities.[13]

The Ohio statute, providing as it does for due notice both to parents and the Board, is compatible with the teacher-pupil relationship and the informal resolution of mistaken disciplinary action. We have relied for generations upon the experience, good faith and dedication of those who staff our public schools,[14] and the nonadversary means of airing grievances that always have been available to pupils and their parents. One would have thought before today's opinion that this informal method of resolving differences was more compatible with the interests of all concerned than resort to any constitutionalized procedure, however blandly it may be defined by the Court.

D

In my view, the constitutionalizing of routine classroom decisions not only represents a significant and unwise extension of the Due Process Clause; it also was quite unnecessary in view of the safeguards prescribed by the Ohio statute. This is demonstrable from a comparison of what the Court mandates as required by due process with the protective procedures it finds constitutionally insufficient.

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[12] The role of the teacher in our society historically has been an honored and respected one, rooted in the experience of decades that has left for most of us warm memories of our teachers, especially those of the formative years of primary and secondary education.

[13] In this regard, the relationship between a student and teacher is manifestly different from that between a welfare administrator and a recipient (see *Goldberg* v. *Kelly*, *supra*), a motor vehicle department and a driver (see *Bell* v. *Burson*, *supra*), a debtor and a creditor (see *Sniadach* v. *Family Finance Corp.*, *supra*; *Fuentes* v. *Shevin*, *supra*; *Mitchell* v. *Grant*, 416 U. S. 600 (1974)), a parole officer and a parolee (see *Morrissey* v. *Brewer*, *supra*), or even an employer and an employee (see *Arnett* v. *Kennedy*, *supra*; *Board of Regents of State College* v. *Roth*, *supra*; *Perry* v. *Sindermann*, 408 U. S. 593 (1972)). In many of these noneducation settings there is—for purposes of this analysis—a "faceless" administrator dealing with an equally "faceless" recipient of some form of government benefit or license; in others, such as the garnishment and repossession cases, there is a conflict of interest relationship. Our public school system, however, is premised on the belief that teachers and pupils should not be "faceless" to each other. Nor does the educational relationship present a typical "conflict of interest." Rather, the relationship traditionally is marked by a coincidence of interests.

Yet the Court, relying on cases such as *Sniadach* and *Fuentes*, apparently views the classroom of teenagers as comparable to the competitive and adversary environment of the adult, commercial world.

[14] A traditional factor in any due process analysis is "the protection implicit in the office of the functionary whose conduct is challenged . . . ." *Joint Anti-Fascist Committee* v. *McGrath*, *supra*, at 163 (Frankfurter, J., concurring). In the public school setting there is a high degree of such protection since a teacher has responsibility for, and a commitment to, his pupils that is absent in other due process contexts.

The Ohio statute, limiting suspensions to not more than eight school days, requires written notice including the "reasons therefor" to the student's parents and to the Board of Education within 24 hours of any suspension. The Court only requires oral or written notice to the pupil, with no notice being required to the parents or the Board of Education. The mere fact of the statutory requirement is a deterrent against arbitrary action by the principal. The Board, usually elected by the people and sensitive to constituent relations, may be expected to identify a principal whose record of suspensions merits inquiry. In any event, parents placed on written notice may exercise their rights as constituents by going directly to the Board or a member thereof if dissatisfied with the principal's decision.

Nor does the Court's due process "hearing" appear to provide significantly more protection than that already available. The Court holds only that the principal must listen to the student's "version of the events," either before suspension or thereafter—depending upon the circumstances. *Ante*, at 17–18. Such a truncated "hearing" is likely to be considerably less meaningful than the opportunities for correcting mistakes already available to students and parents. Indeed, in this case all of the students and parents were offered an opportunity to attend a conference with school officials.

In its rush to mandate a constitutional rule, the Court appears to give no weight to the practical manner in which suspension problems normally would be worked out under Ohio law.[15] One must doubt, then, whether the constitutionalization of the student-teacher relationship, with all of its attendant doctrinal and practical difficulties, will assure in any meaningful sense greater protection than that already afforded under Ohio law.

III

No one can foresee the ultimate frontiers of the new "thicket" the Court now enters. Today's ruling appears to sweep within the protected interest in education a multitude of discretionary decisions in the educational process. Teachers and other school authorities are required to make many decisions that may have serious consequences for the pupil. They must decide, for example, how to grade the student's work, whether a student passes or fails a course,[16] whether he is to be promoted, whether he is required to take certain subjects, whether he may be excluded from interscholastic athletics[17] or other extracurricular activities, whether he may be removed from one school and sent to another, whether he may be bused long distances when available schools are nearby, and whether he should be placed in a "general," "vocational," or "college-preparatory" track.

In these and many similar situations claims of impairment of one's educational entitlement identical in principle to those before the Court today can be asserted with equal or greater justification. Likewise, in many of these situations, the pupil can advance the same types of speculative and subjective injury given critical weight in this case. The District Court, relying upon generalized opinion evidence, concluded that a suspended student may suffer psychological injury in one or more of the ways set forth in the margin below.[18] The Court appears to adopt this rationale. See *ante*, at 9.

It hardly need be said that if a student, as a result of a day's suspension, suffers "a blow" to his "self esteem," "feels powerless," views "teachers with resentment," or feels "stigmatized by his teachers," identical psychological harms will flow from many other routine and necessary school decisions. The student who is given a failing grade, who is not promoted, who is excluded from certain extracurricular activities, who is assigned to a school reserved for children of less than average ability, or who is placed in the "vocational" rather than the "college preparatory" track, is unlikely to suffer any less psychological injury than if he were suspended for a day for a relatively minor infraction.[19]

If, as seems apparent, the Court will now require due process procedures whenever such routine school decisions are challenged, the impact upon public education will be serious indeed. The discretion and judgment of federal courts across the land often will be substituted for that of the 50-state legislatures, the 14,000 school boards[20] and the 2,000,000[21] teachers who heretofore have been responsible for the administration of the American public school system. If the Court perceives a rational and analytically sound distinction between the discretionary decision by school authorities to suspend a pupil for a brief period, and the types of discretionary school decisions described above, it would be prudent to articulate it in today's opinion. Otherwise, the federal courts should prepare themselves for a vast new role in society.

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[15] The Court itself recognizes that the requirements it imposes are, "if anything, less than a fair-minded school principal would impose on himself in order to avoid unfair suspensions." *Ante*, at 17.

[16] See *Connelly* v. *U. of Vermont*, 244 F. Supp. 156 (Vt. 1965).

[17] See *Kelly* v. *Metropolitan County Board of Education of Nashville*, 293 F. Supp. 485 (MD Tenn. 1968).

[18] The psychological injuries so perceived were as follows:

"1. The suspension is a blow to the student's self-esteem.

"2. The student feels powerless and helpless.

"3. The student views school authorities and teachers with resentment, suspicion and fear.

"4. The student learns withdrawals as a mode of problem solving.

"5. The student has little perception of the reasons for the suspension. He does not know what offending acts he committed.

"6. The student is stigmatized by his teachers and school administrators as a deviant. They expect the student to be a troublemaker in the future." (Decision of three-judge District Court, Jurisdictional Statement, at 42.)

[19] There is, no doubt, a school of modern psychological or psychiatric persuasion than maintains that any discipline of the young is detrimental. Whatever one may think of the wisdom of this unproved theory, it hardly affords dependable support for a constitutional decision. Moreover, even the theory's proponents would concede that the magnitude of injury depends primarily upon the individual child or teenager. A classroom reprimand by the teacher may be more traumatic to the shy, timid introvert than expulsion would be the aggressive, rebellious extrovert. In my view we tend to lose our sense of perspective and proportion in a case of this kind. For the average, normal child—the vast majority—suspension for a few days is simply *not* a detriment; it is a commonplace occurrence, with some 10% of all students being suspended; it leaves no scars; affects no reputations; indeed, it often may be viewed by the young as a badge of some distinction and a welcome holiday.

[20] This estimate was supplied by the National School Board Association, Washington, D. C.

[21] See U. S. Office of Education, Elementary and Secondary Public School Statistics, 1972–1973.

IV

Not so long ago, state deprivations of the most significant forms of state largesse were not thought to require due process protection on the ground that the deprivation resulted only in the loss of a state provided "benefit." *E. g.*, *Bailey* v. *Richardson*, 182 F. 2d 46 (CADC), aff'd by an equally divided Court, 341 U. S. 918 (1951). In recent years the Court, wisely in my view, has rejected the "wooden distinction between 'rights' and 'privileges,'" *Board of Regents* v. *Roth*, *supra*, 408 U. S., at 571, and looked instead to the significance of the state created or enforced right and to the substantiality of the alleged deprivation. Today's opinion appears to abandon this reasonable approach by holding in effect that government infringement of any interest to which a person is entitled, no matter what the interest or how inconsequential the infringement, requires *constitutional* protection. As it is difficult to think of any less consequential infringement than suspension of a junior high school student for a single day, it is equally difficult to perceive any principled limit to the new reach of procedural due process.[22]

THOMAS A. BUSTIN, Senior Assistant City Attorney, Columbus, Ohio (JAMES J. HUGHES, City Attorney, and ROBERT A. BELL, First Assistant City Attorney, with him on the brief) for appellants. PETER D. ROOS, Cambridge, Mass. (ERIC E. VAN LOON, DENNIS MURPHY, KENNETH C. CURTIN and I.W. BARKIN, with him on the brief) for appellees.

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[22] Some half dozen years ago, the Court extended First Amendment rights under limited circumstances to public school pupils. Mr. Justice Black, dissenting, viewed the decision as ushering in "an entirely new era in which the power to control pupils by the elected 'officials of state-supported public schools . . .' is in ultimate effect transferred to the Supreme Court." *Tinker*, *supra*, at 515. There were some who thought Mr. Justice Black was unduly concerned. But the prophecy of Mr. Justice Black is now being fulfilled. In the few years since *Tinker* there have been literally hundreds of cases by school children alleging violation of their constitutional rights. This flood of litigation, between pupils and school authorities, was triggered by a narrowly written First Amendment case which I could well have joined on its facts. One can only speculate as to the extent to which public education will be disrupted by giving every school child the power to contest *in court* any decision made by his teacher which arguably infringes the state conferred right to education.

The [illegible]
Parents' Association
P. O. Box 1984
Annapolis, Maryland

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HEW REGION III

Mr. Wego
Regional Directors' Office
Civil Rights Division
Department of Health, Education &
Welfare
P. O. Box 13716
Philadelphia, Pennsylvania

Dear Mr. Wego,

We represent parents of Black children in the Maryland State-Anne Arundel County school system.

Our concerns we feel are within the ambit of your departments' jurisdiction, since the basis of our complaints center around patterns of discrimination practiced by the school system in Anna Arundel County.

In the last month we have been seeking explanations concerning our childrens' complaints to wit; we were refused public meetings with proper school officials, indications of administrtive coverups, sabotage of public meetings that the Parents' Association had called to air complaints and a host of other intimidations of our children who dared to make their complaints known.

Our allegations have been inquisitory rather than accusatory to this point. However, the strange and unusual manner of response of the administration gives rise to a belief that there is true merit to our childrens' claims. We seek your office to investigate the entire Anne Arundel school system - from Meade Village to Southern High School to find out if there is merit to what appears to be a pattern of "sit down, shut up or get out" messages given our Black children.

Examples of our complaints have been attached to this letter. We request that the investigation process of your office not be limited to the school and school forums alone, but rather that it be based in the Black Communities, where the parents and children will feel less intimidated. Often poor Black people feel afraid to voice complaints in foreign forums.

Our organization and S.C.L.C. would be pleased to aasist you in making contact with complaintants.

The last major complaint flows to the very essence of our childrens' academic experience. It is the fact that Black experience is localized by our school system into subjects rather than being intertwined within the total academic experience, i.e. "Black History". We feel this creates conceptual segregation of our race and makes us apart from the intertwined and inextricable course of experience. And that this conceptual segregation creates inoperative social systems to develop in the minds of White and Black children living in a legally integrated society.

Also, we would like to see initiated the using of the'Situational Attitude Scale' developed by Drs. William Sedlacek and Glenwood Brooks as a method of determining racist attitudes that we feel are prevelant in the children and teachers. These attitudes foster the momore salient outbursts such as fights and subsequent discriminatory discipline.

Sincerely,

Martha Wood

Mrs. Martha Wood, President
Parents' Association

Sam Kennedy

Mr. Sam Kennedy, S.C.L.C.
Anne Arundel County

Anne Blumenberg

Miss Anne Blumenberg S.C.L.C.
Anne Arundel County

Senator **Beall**. Presumably, HEW will follow up on these instances. The committee stands in recess.

[Whereupon, at 12:55 p.m., the committee was recessed, to reconvene subject to the call of the Chair.]

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